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Hughes' Parliamentary Guide

FOR

Ohio General Assembly

The Passing of Bills

BY

EDWARD WAKEFIELD HUGHES

Parliamentarian

House of Representatives Seventy-Ninth
General Assembly and Parliamentarian
and Assistant Clerk of 81st General Assem-
bly of Ohio and Parliamentarian, House
and Senate, 83rd Assembly

Prepared under authority of House Resolution No. 59, offered
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eral Assembly of Ohio

COLUMBUS, OHIO

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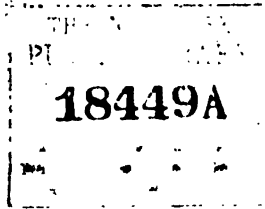
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To My Friend

THE HONORABLE
CAPTAIN JOHN P. MAYNARD

Clerk of the House of Representatives
in the 78th and 81st and 83rd General
Assemblies of Ohio

and the

MEMBERS AND OFFICERS
of the 83rd
GENERAL ASSEMBLY

with cherished recollections of
responsibilities and labors
shared, is this volume
humbly and gratefully inscribed.

— *Edward Wakefield Hughes*

PREFACE

The member-elect of the General Assembly has a very short time at his command for the study of parliamentary law as practiced in the legislature and if he had an abundance of time he would find it difficult, indeed, to secure any books treating upon this all-important subject to him (as a legislator). "The science of law-making," or to be more specific and use the parliamentary term **"The passing of bills."**

The author in his extended investigation has not found anything written recently by English writers and but two American writers have ever touched upon the subject of **passing bills — Jefferson and Cushing.** The latter of these produced a great but cumbersome and expensive volume known as **"Law and Practice of Legislative Assemblies."** Jefferson's Manual was written for his own guidance. But neither of these volumes would furnish the inexperienced member of our legislature with the information he most needs and for the reason **their plans do not descend to details.**

The third edition of this Guide though considerably enlarged is the same in design and general arrangement as the former editions; all changes in Practice have been noted and additional information has been sought from all reliable and available sources for the general improvement of the work.

In the compilation of the following pages the writer has had no thought, nor has there been any attempt to produce a scientific treatise covering every phase of Parliamentary law, but he has confined his work to the rules and practice of parliamentary law, as it relates to the "passing of bills"; in other words that part of parliamentary law that shall be useful to our legislative bodies. In so doing,

he has hoped to provide a useful, handy and reliable book of reference for the members of the assembly and particularly the new and inexperienced member we meet every two years,

No one having had legislative experience will question the very urgent need for a manual, (such as this purports to be), for the use of the members of the General Assembly. Nearly all members coming to the Legislature to serve their first terms have some knowledge of the parliamentary rules governing debate, and if they have not, they may acquire a good working knowledge from any of the many manuals on the subject, to be found on the market.

But few, if any at all, among the new members have even superficial information, in fact, they know nothing, of that principal division of parliamentary rules, **the enactment of laws, or the passing of bills**, which is the all-important thing for the members to know if they would be successful and find pleasure in their legislative duties. But where shall we refer these new member for this necessary information aside from the **book of experience**? Or the two authors mentioned in the foregoing. And with Jefferson's Manual and Cushing's Law and Practice of Legislative Assemblies at their command, the novice would experience great difficulty in equipping himself for service in the Ohio Assembly.

In preparing a manual of this kind the inevitable difficulty of selection, when dealing with a subject of such magnitude, is at once manifest. What appears from the experienced point of view to be of minor interest, is from the inexperienced point of view, paramount in importance, while in truth no detail is of itself insignificant. Perhaps this last thought is better expressed by Speaker Reed in the preface to his manual, he says: **"If it should seem to anyone versed in parliamentary law that many of the forms contained in these pages are too simple to need printing, the writer ventures to suggest that a beginner does not know the simpler things, and needs them most."**

In making this revision of the Guide the opportunity

has been embraced for extending the scope of the manual by including herein the rules, practice and procedure of our National House of Representatives as it relates to **the passing of bills**. This has been done in response to the ever increasing demand for information of this character. We also desire to call especial attention to the chapters on privileged motions, amendments between the Houses and conferences which give a faithful and reliable account of the practice of Congress, all of which have been designated American Parliamentary Law.

To present under one cover, with the necessary brevity and still with sufficient clearness, the practice of the Ohio Assembly and that of the National House (each of which should have a volume by itself) is not a simple task, but it was undertaken with the hope that the two combined would meet the parliamentary needs of the Ohio Assembly. The author trusts that the increased scope of the subject secured by the additions referred to will lead to the increased usefulness of this manual.

As in former editions the text contains many lines which will, possibly, prove useful and valuable for reference, but if they will furnish answers to the hundreds of questions which inexperience or experience may prompt, their presence in these pages will be fully vindicated.

The many forms and illustrations which have for any reason received consideration in the body of this manual are such as will be found useful. The number of these is large; there would have been no difficulty in making them very much larger. In no case, however, have they been introduced for any other purpose than to illustrate a principle and to become a guide to the members in the performance of their duties. If those given fail in this particular, it would be useless to multiply examples.

I have taken pains to select the very best examples that have come under my observation; as to the propriety or impropriety of the parliamentary procedure in any given case, my judgment has been rarely expressed. My office has been to record the unwritten rules of the Assembly.

To search out and assemble all available information that relates to the passing of bills.

In the compilation of this work the writer has endeavored to the best of his ability to present as much of parliamentary law relating to law-making as could by any possibility be useful, either as illustration or authority, to the members of the Assembly.

In the execution of the plan I have quoted copiously from such accepted authorities as Jefferson, Cushing, Reed, Roberts, Hinds and Clark and the English writers Hatsell and May, and in some instances I have not hesitated to lift the text in its entirety without change.

I desire to acknowledge my indebtedness to Captain John P. Maynard, Clerk of the House, and W. E. Halley, Clerk of the Senate, for valuable suggestions in preparing this edition of the Guide.

I also acknowledge that never-to-be-paid debt to my beloved wife Margaret Virginia Terrell Hughes, to whose patient kindness, loving and tender care, devotion and self-sacrifice, I have been able to maintain sufficient strength to begin and complete this work which has been accomplished under great physical disability.

As I am placing the finishing touches on the manuscript of this manual to send it to the printer, the words of Mr. Jefferson used in the preface to his manual come forcibly to my mind and I cannot refrain from inserting them here as being the expression of my own feelings.

"I have begun a sketch, which those who come after me may successively correct and fill up, 'till a code of rules shall be formed * * * the effects of which may be accuracy in business, economy of time, order, uniformity and impartiality."

EDWARD WAKEFIELD HUGHES.

Columbus, O., July 24, 1920.

PREFACE TO FIRST AND SECOND EDITIONS

One of the important duties of a new member of the General Assembly is to familiarize himself with the parliamentary procedure and the rules of the body of which he is a member. His usefulness as a member of the Assembly does not depend so much upon his education or literary attainments, as it does upon his faithfulness to duty and a knowledge of parliamentary law. He should carefully study the various stages through which a bill must pass before it becomes a law; the rules of the General Assembly and the laws and the constitution of the state bearing upon the duties, powers and rights of members of the law-making body. To assist in acquainting him with these matters is the purpose of this Guide. If the new member thus equips himself for the service he is to render, he will do honor to himself and will be capable of far greater service to his constituency.

In the preparation of this volume the author has keenly felt the great responsibility that was before him. He has freely consulted the works of such eminent writers on parliamentary law as Jefferson, Cushing, Roberts, Reed, Hinds and others. The author will feel that his labors have not been in vain if the contents of this volume will be of any assistance to the members of the General Assembly.

EDWARD WAKEFIELD HUGHES.

GENERAL PARLIAMENTARY LAW — WHEN IT GOVERNS LEGISLATIVE BODIES

Under our constitution each House is authorized to make its own rules, which is always done early in each session. It is the custom for each body to adopt the rules of its predecessors temporarily at the beginning of the session. As it would be impossible for either House by its own rules, to cover every phase of parliamentary procedure, it is commonly agreed that in the absence of specific rules on any given proposition that may arise common parliamentary law as modified by usage in this country, govern the proceedings.

Discussing this subject generally, former Speaker Reed, of the National House of Representatives, says in his rules, page 52: **"Where no special rules are adopted the assembly is governed by general parliamentary law and where rules are adopted general parliamentary law governs, except where its provisions are changed by the rules themselves."**

"It is usual to say that general parliamentary law is derived from the practice of the British Parliament modified by the parliamentary customs of this country; but the difference between the system in use here and the English system is so great and so radical that it would perhaps be more accurate to say that American general parliamentary law, while it acknowledges its English origin rests upon the practice of American assemblies." (Reed.)

Inasmuch as the House has adopted Roberts' Rules of Order as a part of the House rules, Roberts' opinion on this subject should have weight with the House. Mr. Roberts says, page 15. "Parliamentary law refers originally to the customs and rules for conducting business in the English Parliament; and thence to the usages of de-

liberative assemblies in general. In England these usages of Parliament form a part of the unwritten law of the land, and in our own legislative bodies they are of authority in all cases where they do not conflict with existing rules or precedents." Further along in his discussion of this subject Roberts runs into agreement with Speaker Reed, that the general parliamentary law as modified and used in Congress should govern in the absence of rules to the contrary.

The Ohio Senate in all cases not provided by its rules is governed by the rules of Cushing. In discussing this subject of what governs in the absence of rules he says. "Sec. 793. After a legislative assembly meets and until it adopts rules and orders, it is governed and its proceedings regulated by the common parliamentary law; and when it has adopted rules and orders of its own it is governed partly by them, in cases to which they apply and partly in all cases to which the rules and orders are not applicable by rules drawn from the common parliamentary law." Cushing.

We have written at length on this subject for the reason that the question is frequently a disturbing one and during a session the query is daily made, and it has happened that the officers have been in disagreement on the subject. But in view of the adoption of Roberts' and Cushing's rules by the two bodies and their emphatic declaration on the subject it would seem to be settled so far as the Ohio Assembly is concerned that in the absence of rules of its own it is governed by general or common parliamentary law. For a more extended study of this subject see Mr. Cushing generally also Mr. Jefferson. The query may arise what is the general and common parliamentary law of this country? The practice of our National House of Representatives seems to be the accepted law of this country and our state legislative bodies have modeled their rules of procedure after it.

ORIGIN OF PARLIAMENTARY LAW

Origin and Precedence. — Parliamentary law, as it now exists, had its origin as a system in the parliament of England. Undoubtedly in every country and in every age where assemblies of people were held, some form of procedure became established and was followed. But these forms of procedure have, in many, perhaps most, instances, perished, and would probably be of little use to us now if fully known. The English system itself has been so changed within human memory in every country where the parliamentary system of government has been adopted that English precedence afford us little help as to actual procedure. Nevertheless they are still of much use in determining and establishing fundamental principles." — *Thomas B. Reed.*

In the Ohio General Assembly the two bodies adopt their own rules relative to the conduct of business, and upon these rules the general parliamentary procedure of the bodies has its foundation. On all questions that may arise wherein no provision has been made by the adopted rules it is customary for the rules to cite some parliamentary authority to govern such cases.

CHAPTER I

GENERAL ASSEMBLY OF OHIO

Legislative Power

SEC. 1. The constitution of Ohio declares the **legislative power** of the state **to be vested in the General Assembly**, but reserves certain powers for the **people under the initiative and referendum** and in addition **clothes the chief executive with certain legislative powers**. The General Assembly of Ohio is therefore composed of the Governor, Senate and House of Representatives. See Art. II, section I, Const.

Initiative and Referendum

Sec. 2. The legislative power of the state shall be vested in a general assembly consisting of a senate and house of representatives but the people reserve to themselves the power to propose to the general assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, section of any law or any item in any law appropriating money passed by the general assembly, except as hereinafter provided; and independent of the general assembly to propose amendments to the constitution and to adopt or reject the same at the polls. The limitations expressed in the constitution, on the power of the general assembly to enact law, shall be deemed limitations on the power of the people to enact laws. (Adopted Sept 3, 1912. Const., Art II, Sec. 1.)

Apportionment of Members of Assembly

Sec. 3. The apportionment of this state for members of the General Assembly shall be made every ten years,

after the year one thousand eight hundred and fifty-one, in the following manner: The whole population of the state, as ascertained by the federal census, or in such other mode as the General Assembly may direct, shall be divided by the number "one hundred," and the quotient shall be the ratio of representation in the house of representatives, for ten years next preceding such apportionment. (Const., Sec. 1, Art. XI.)

Each County to Have One Representative

Sec. 4. Every county having a population equal to one-half of said ratio, shall be entitled to one representative; every county containing said ratio, and three-fourths over, shall be entitled to two representatives; every county containing three times said ratio, shall be entitled to three representatives; and so on, requiring after the first two, an entire ratio for each additional representative. Provided, however, that each county shall have one representative. (As amended November 3, 1903. Const., Art. XI, Sec. 2.)

Additional Representatives

Sec. 5. When any county shall have a fraction above the ratio, so large, that being multiplied by five, the result will be equal to one or more ratios, additional representatives shall be apportioned for such ratios, among the several sessions of the decennial period, in the following manner: If there be only one ratio, a representative shall be allotted to the fifth session of the decennial period; if there are two ratios, a representative shall be allotted to the fourth and third sessions, respectively; if three, to the third, second and first sessions, respectively; if four, to the fourth, third, second, and first sessions respectively.

Sec. 6. Any county forming with another county or counties, a representative district, during one decennial period, if it have required sufficient population at the next decennial period, shall be entitled to a separate representation, if there shall be left, in the district from which it

shall have been separated, a population sufficient for a representative; but no change shall be made, except in the regular decennial period for the apportionment of representatives. (Const., Art. XI, Sec. 4.)

Sec. 7. If, in fixing any subsequent ratio, a county, previously entitled to separate representation, shall have less than the number required by the new ratio for a representative, such county shall be attached to the county adjoining it, having the least number of inhabitants; and the representation of the district, so formed, shall be determined as herein provided. (Const., Art. XI, Sec. 5.)

Sec. 8. The ratio for a senator shall forever, hereafter be ascertained by dividing the whole population of the state by the number thirty-five. (Const. Art XI, Sec. 6.)

Election of Members

Sec. 9. Senators and representatives shall be elected biennially by the electors of the respective counties or districts, on the first Tuesday after the first Monday in November; their term of office shall commence on the first day of January next thereafter, and continue two years. (As amended October 13, 1885. Const., Art. 2 Sec. 2.)

Regular Session

Sec. 10. All regular sessions of the general assembly shall commence on the first Monday of January, biennially. The first session, under this constitution, shall commence on the first Monday of January, one thousand eight hundred and fifty-two. (Const., Art. 2, Sec. 25.)

Powers Duties and Privileges

Sec. 11. Each house shall be judge of the election, returns and qualifications of its own members; a majority of all the members elected to each house shall be a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as shall be prescribed by law. (Const., Art. 2, Sec. 6.)

Sec. 12. The mode of organizing the house of representatives at the commencement of each regular session, shall be prescribed by law. (Const., Art. 2, Sec. 7.)

Sec. 13. Each house, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct; and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all powers, necessary to provide for its safety and the undisturbed transaction of its business, and to obtain, through committees or otherwise, information affecting legislative action under consideration or in contemplation, or with reference to any alleged breach of its privileges or misconduct of its members, and to that end to enforce the attendance and testimony of witnesses, and the production of books and papers. (Adopted Sept. 3, 1912. Const., Art. 2, Sec. 8.)

Majority to Pass Bill.

Sec. 14. Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any two members, the yeas and nays shall be entered upon the journal; and, on the passage of every bill, in either house, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed in either house without the concurrence of a majority of all the members elected thereto. (Const., Art 2, Sec. 9.)

Sec. 15. Any member of either house shall have the right to protest against any act, or resolution thereof; and such protest, and the reasons therefor, shall without alteration, commitment, or delay be entered upon the journal. (Const., Art. 2, Sec. 10.)

Sec. 16. All vacancies which may happen in either house, shall for the unexpired term, be filled by election, as shall be directed by law.

Sec. 17. Senators and representatives, during the session of the general assembly, and in going to and returning from the same, shall be privileged from arrest, in all cases,

except treason, felony or breach of the peace; and for any speech, or debate, in either house, they shall not be questioned elsewhere. [Const., Art. 2, Sec. 12.)

Proceedings of Assembly Public

Sec. 18. The proceedings of both houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy.

Sec. 19. Neither house shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that in which the two houses shall be in session. (Const., Art. 2, Sec. 14.)

Sec. 20. **Bills may originate in either house;** but may be altered, amended or rejected in the other. (Const., Art. 2, Sec. 15.)

Assembly May Suspend Laws

Sec. 21. No power of suspending laws shall ever be exercised, except by the General Assembly. (Const., Art. I, Sec. 15.)

Trial of Contested Election

Sec. 22. The general assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted. (Const., Art. II, Sec. 21.)

How Money Is Drawn from Treasury

Sec. 23. No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years. (Const., Art. II, Sec. 22.)

CHAPTER II

GENERAL ASSEMBLY ORGANIZATION

Powers of Each House Over Absent Members

Sec. 24. Upon a call of either house, at the commencement of the General Assembly, or during a session thereof, if a quorum of members is not present, or a member or members are absent, the members present may direct these sergeant-at-arms, or, if there is no sergeant-at-arms of such house, any other person, to compel the attendance of absentees. If, on a call of either house, the members present refuse to excuse an absentee, he shall not be entitled to compensation during his absence, and shall be liable for expenses incurred in procuring his attendance, which shall be deducted from his salary as a member. (G. C. Sec. 46.)

Evidence of Membership

Sec. 25. For the purpose of organizing the Senate and House of Representatives of the General Assembly, a certificate of election from the Board of Deputy State Supervisors of Elections of the proper county shall be prima facie evidence of the right to membership of the person therein to be elected senator or representative. (G. C. Sec. 34.)

Caucus

Sec. 26. **Meaning of.** — A formal meeting of the members of the legislative body, belonging to the same political party, to decide how they shall vote for officers of the body or upon any question to be voted upon in the body is a caucus. Its action is usually treated as binding all members.

Caucus Called By Whom

Sec. 27. Previous to the meeting of the General Assembly for organization as provided by law, it is customary for each political party to meet in caucus in the city of Columbus and nominate persons for the several statutory officers. By long established precedence the authority for calling a party caucus and naming the date for same is vested in the person in each body who has had the longest continuous service. Where one or more persons in each body have had the same number of years of continuous service, the duty then devolves upon the member who is the oldest in years as well as in service.

Minority Floor Leaders

Sec. 28. By long established precedent, the candidate of the minority for speaker is recognized by that party as their floor leader during the session. In other words, he sustains the same relation to the minority as does the speaker pro tem to the majority. He has no duties or powers vested in him except those granted by courtesy of the members of his party, and the speaker of the House. Custom has decreed that he should not be a member of any standing committee except the committee on rules.

Organization of the Senate

Sec. 29. At ten o'clock, forenoon, of the day appointed for the beginning of a regular session of the General Assembly, the President of the Senate, or, in case of his absence or inability, the oldest senator-elect present, shall take the chair, call the senators-elect to order, and appoint one of them clerk pro tempore. The chairman shall call the senatorial districts in their numerical order, and as they are called the persons claiming to be senators-elect therefrom shall present their certificates and take the oath of office. (G. C. Sec. 35.)

Announcement of Convener

Sec. 30. This being the time fixed by the constitution of the state for the meeting of the General Assembly, and the duty of calling this honorable body to order being delegated by law to the....., and there appearing to be present a sufficient number of the members-elect to constitute a quorum, I take pleasure in requesting the Senate to come to order etc.

Who May Administer Oath

Sec. 31. The oath of office of senators and representatives, the president pro tempore of the Senate, the speaker and speaker pro tempore of the House of Representatives, the clerk and assistant clerks, the sergeant-at-arms and assistant sergeants-at-arms of each house, may be administered by a member or by a person authorized to administer oaths. (G. C. Sec. 41.)

Temporary Organization.—The convener then should call to the desk of the clerk, for temporary service, the following officers of the preceding House: The clerk, journal clerk, message clerk, sergeant-at-arms and second assistant sergeant-at-arms, requesting them to immediately assume their respective positions. (G. C. Sec. 33.)

Sec. 32. At this juncture it is customary for prayer to be offered.

Call of Counties

Sec. 33. After prayer the presiding officer appoints one member-elect as temporary clerk and immediately directs a call of the counties in alphabetical order. As the counties are called the members-elect therefrom should go forward to the desk of the clerk, present their certificates of election and take the oath of office, usually administered by a judge of the Supreme Court.

Officers of Senate, Election

Sec. 34. After the senators-elect have taken the oath of office, if there is a quorum present, the Senate shall

proceed to the election of a president pro tempore, a clerk, five assistant clerks, to-wit: A journal clerk, message clerk, engrossing clerk, enrolling clerk and a recording clerk; a sergeant-at-arms, first assistant sergeant-at-arms, and a second assistant sergeant-at-arms. The election shall be in the order herein stated, and by viva voce vote.

Notifying House

Sec. 35. When the officers are elected each body is then ready to proceed to business and a motion should then be made as follows:, I move that the clerk be directed to forward a message to the House, notifying that body that the Senate has organized by the election of officers and is now ready to proceed to business.

Presiding Officer of Senate

Sec. 36. The Lieutenant Governor by virtue of his office is President and presiding officer of the Senate. The elective officers of the Senate as provided by statute are the same as in the House, with the exception of Speaker, who is the presiding officer of the House and the Speaker pro tem, who is the party floor leader. In the Senate organization the President pro tem is the highest officer elected and by virtue of such office becomes the party floor leader in that body.

Sec. 37. **Note. — Members not answering to their names on the first roll call should, upon their first appearance in the Senate, inform the President of their presence, present their certificates and take the oath of office.)**

IN THE HOUSE

Organization of House of Representatives

Sec. 38. At ten o'clock, forenoon, of the day appointed for the beginning of a regular session of the General Assembly, the Secretary of State, or, in case of his absence or inability, the Auditor of State, shall take the chair in the hall of the House of Representatives, call the repre-

sentatives-elect to order, and appoint one of them clerk pro tempore. He also shall call the counties in alphabetical order, and as they are called, the representatives-elect therefrom shall present their certificates and take the oath of office. (Sec. 35, 36, 37, G. C.)

Convener

Sec. 39. When the hour for meeting and organization arrives, the Secretary of State, or, in his absence or disability, the Auditor of State, shall take the chair in the hall of the House of Representatives and call the members-elect to order.

Announcement of Conveners

Sec. 40. This being the time fixed by the constitution of the state for the meeting of the General Assembly, and the duty of calling this honorable body to order being delegated by law to me, and there appearing to be present a sufficient number of the members-elect to constitute a quorum, I take pleasure in requesting the House to come to order, etc.

Temporary Organization

Sec. 41. The convener then should call to the desk of the clerk, for temporary service the following officers of the preceding House: The clerk, journal clerk, message clerk, sergeant-at-arms and second assistant sergeant-at-arms, requesting them to immediately assume their respective positions. (G. C. Sec. 33.)

Prayer

Sec. 42. At this juncture it is customary for prayer to be offered.

Call of Roll

Sec. 43. After prayer the presiding officer appoints one member-elect as temporary clerk and immediately directs a call of the counties in alphabetical order. As the counties are called the members-elect therefrom should go forward to the desk of the clerk, present their certificates

of election and take the oath of office, usually administered by a judge of the Supreme Court.

Membership

Sec. 44. Previous to the organization of the two bodies, members elect of the General Assembly are required to present their certificates from the board of deputy state supervisors of elections of the several counties, which are accepted as prima facie evidence of the right of such person to membership in the House or Senate as provided by law.

Who May Administer Oaths

Sec. 45. The oath of office of senators and representatives, the president pro tempore of the Senate, the speaker and speaker pro tempore of the House of Representatives, the clerk and assistant clerks, the sergeant-at-arms and assistant sergeants-at-arms of each house, may be administered by a member or by a person authorized to administer oaths.

Sec. 46. **(Note. — Members not answering to their names on the first roll call should, upon their first appearance in the House, inform the Speaker of their presence, present their certificates and take the oath of office.)**

Officers of House, Their Election

Sec. 47. After the representatives-elect have taken the oath of office, if there is a quorum present, the House shall proceed to the election of a speaker, a speaker pro tempore, a clerk, five assistant clerks, towit: A journal clerk, message clerk, engrossing clerk, enrolling clerk and a recording clerk; a sergeant-at-arms, first assistant sergeant-at-arms, second assistant sergeant-at-arms, and a third assistant-sergeant-at-arms. The election shall be in the order stated, and by viva voce vote. (G. C. Sec. 38.)

Majority Required to Tenth Voting

Sec. 48. A majority of the votes given at an election for an officer of either house shall be necessary to elect.

If a choice is not made on or before the tenth voting, the person thereafter receiving the highest number of votes shall be declared elected. (G. C. Sec. 39. See Sec. 37 G. C.)

Procedure After Organization

Sec. 49. When the officers are elected the body is then ready to proceed to business and a motion should then be made in the following form:, I move that the clerk be directed to forward a message to the Senate, notifying that body that the House has organized by the election of its officers and is now ready to proceed to business.

Form of Message

Sec. 50. "MR. PRESIDENT (or Mr. Speaker as the case may be):

By direction of the House of Representatives, or Senate, (as the case may be) I have the honor to officially inform you that the House of Representatives has organized by the election of the following statutory officers and is now ready to proceed to business:

.....Speaker.
Speaker pro tem.
Clerk.
Journal Clerk.
Message Clerk.
Engrossing Clerk.
Enrolling Clerk.
Recording Clerk.
Sergeant-at-Arms.
First Assistant Sergeant-at-Arms.
Second Assistant Sergeant-at-Arms.
Third Assistant Sergeant-at-Arms.

Attest

Clerk.

Sec. 51. NOTE:—Same form of message used by Senate with omission of Speaker and changing Speaker pro tem to President pro tem.

Committee to Notify Speaker-Elect

Sec. 52. Immediately following the election of the Speaker, it is customary for the presiding officer to appoint a committee of three members — two from the majority and one from the minority party — to notify the member of his election and escort him to the Speaker's stand where he takes the oath of office and is introduced to the House by the presiding officer. He is then presented with the gavel and, if he chooses, delivers a short address expressing his appreciation of the honor, after which the House proceeds with the election of the remaining officers.

Governor Notified of Organization

Sec. 53. After the election of officers and notice has been sent to the Senate, the next business in order is to notify the Governor that the General Assembly is in session and is ready to receive any communication he may see fit to transmit. This is done by joint resolution.

Form of Resolution Giving Notice to the Governor

.....General Assembly. }	H. J. R. No.....
Regular Session, 19.... }	

Mr.

Relative to notifying the Governor that the General Assembly has organized and is ready to receive communications.

Be it resolved, by the General Assembly of the State of Ohio:

Sec. 54. That a committee of three on the part of the House, and on the part of the Senate, be appointed to wait upon the Honorable Governor of Ohio, and inform him that the General Assembly is in session and ready to receive any communication he may see fit to transmit.

Sec. 55. When the committee has waited upon the Governor and delivered the message of the Assembly, the following report should be made:

Form of Report of Committee to Inform Governor

MR. SPEAKER (or President, as the case may be):

Sec. 56. The joint committee appointed under the provision of H. J. R. No....., Mr..... to wait upon the Governor of the State and inform him that the General Assembly was organized and ready to receive any message he might desire to communicate, beg leave to report that they have performed that service and the Governor informed your committee he would forthwith communicate to the General Assembly, in writing.

.....
.....
.....
<i>Senate Committee.</i>	<i>House Committee.</i>

Disposition of Governor's Message

Sec. 57. After the message of the Governor has been read, the following motion should be made: "Mr. Speaker, I move that the message of the Governor be received and the several recommendations contained therein be referred to the appropriate committees by the Speaker," (or any special committee or the committee of the whole.)

Sec. 58. NOTE:—Any of the foregoing joint resolutions necessary at the opening of the session may originate in the Senate in which instance they would be known as Senate Joint Resolutions.

Necessary Resolutions to Follow

Sec. 59. For the purpose of expediting business the following resolutions are usually introduced the first or second day of the session. Forms for these resolutions may be found in chapter V.

Joint Resolutions

Providing for the inauguration of the Governor.
For joint convention to canvass vote for state officers.

House and Senate Resolutions

Sec. 60. Relative to rules of House or Senate as case may be.

For choice of seats.

For additional help for sergeant-at-arms. (Usually preseded by a request from sergeant-at-arms.)

For additional help in office of clerk. (Usually preceded by a request from clerk.)

Providing for chaplain.

Providing for pages.

Providing for stenographers.

Relative to renting typewriters.

Providing stationery for members.

Providing sets of General Code for use of members.

Quorum

Sec. 61. A quorum of either House of the Ohio General Assembly is provided by law, and is a majority of the members elected to each body. It is true that often business of minor importance is transacted without a quorum of the body, but if important matters arise under such conditions, a call of the House or Senate, as the case may be, should be demanded which determines whether or not a quorum is present. If the result of such call shows an absence of a quorum, a motion to adjourn should be made, or the presiding officer should direct the sergeant-at-arms to bring in a sufficient number of absent members to establish a quorum. It should be remembered that in ordinary parliamentary procedure a quorum is always considered to be present unless the question of a quorum is raised or the lack of such quorum is disclosed by a roll call.

Sec. 62. **The presiding officer cannot adjourn the body unless such power is vested in him by a specific rule adopted by the body.**

Quorum of Other Bodies

Sec. 63. In the English Parliament, the House of Lords, consisting of about four hundred and fifty members, can proceed to business if three members are present: and the House of Commons, with about six hundred and seventy members, requires only forty members for a quorum. The United States Constitution (Art. I, Sec. 5) provides that a majority of each House of Congress shall constitute a quorum to do business.

CHAPTER III

STANDING COMMITTEES

APPOINTMENT POWERS AND DUTIES

Sec. 64. **Nature of Committees.** — Thomas B. Reed says: "The committee is the eye, the ear, and hand, and very often the brain, of the assembly. Freed from the very great inconvenience of numbers it can study a question, obtain full information, and put the proposed action in proper shape for final decision. * * * and tends to preserve the assembly of its greatest danger, that of being carried away by some harangue which excites feeling, appeals to sentiment only, and obscures reason."

Sec. 65. **Manner of Selection.** — Several different ways may be employed in the selection of committees:

By the presiding officer.

By resolution.

By nomination and vote.

By ballot.

Sec. 66. **Practice in House.** — For many years the practice has been observed by the Ohio House of Representatives to permit the Speaker to appoint all committees.

Sec. 66a. **Practice in Senate.** — In the Senate, a resolution is usually introduced naming a nominating committee for the purpose of the appointment of standing committees. The appointment of standing committees is usually made in from seven to ten days after the opening of the session.

Sec. 67. **Kinds of Committees.** — There are several kinds of committees, namely: Standing committees, appointed for the session; Select or Special committees, appointed to investigate or consider special questions that

may arise; Joint committees, composed of members from each body, to consider questions of interest to both bodies, and conference committees, to which are referred matters of difference between the Houses.

Chairman Of

Sec. 68. The House has forty-one standing committees and the Senate thirty-eight. The rules provide that the first named member shall be Chairman, unless the committee by a majority vote name a chairman.

NOTE:—For names of committees see Rules of the House and Senate.

Quorum in Committees

Sec. 69. All committees are creatures and instruments of the Assembly and their functions are merely advisory. In the practice of the Ohio General Assembly a majority of the members of all committees must be present to transact business, such number being a quorum. The exception to this rule is Committees of Conference. When such committees come to the determination of a question the vote must be a majority vote of each committee voting separately.

Members Absenting Themselves from Committee Meeting Should Be Reported to the House

Sec. 69a. The following is the practice of the English Parliament: If at any time a quorum should not be present the chairman suspends the proceedings, and if at the expiration of an hour there should still be less than a quorum the committee is adjourned to the next meeting day when the House is in session. No member of a committee is permitted to absent himself, except in case of sickness or by order of the House.

Members absenting themselves from committee meetings are reported to the House at its next sitting, when they are either directed to attend at the next sitting of the committee, or, if their absence has been occasioned by sick-

ness, domestic affliction or other sufficient cause, they are excused from attendance. If after a committee has been formed a quorum of members cannot attend, the chairman should report the circumstance to the House, when the members still remaining are ordered to proceed or such orders are made as the House may deem necessary. (May p. 530.)

Appointment of Committees

Sec. 70. **The invariable rule of the House is to permit the Speaker to appoint all Committees.** — So fixed has this practice become that even before the rules to govern the body have been adopted the Speaker sometimes names the committees and his **right so to do has never been questioned.**

Appointment of Committee in Senate

Sec. 71. In the Senate, it being a much smaller body and the presiding officer not being a member, that body does not delegate its power of appointment to the President but appoints the committees itself in the following manner.

Sec. 72. On the first or second day of the session a resolution similar to the following is introduced in the Senate.

Committee on Committees (Form)

S. R. No..... Resolved, That a select committee consisting of Messrs. Doe, Rowe and Poe, be and are hereby appointed to prepare and report to the Senate the assignment of members to the standing committees thereof and that such select committee shall have power to recommend the creation of new committees and to increase or decrease the membership of the standing committees provided for by the rules of the last Senate, should they deem such action necessary. (The committee thus provided for is usually composed of seven members, the majority of which of course are taken from the majority party.)

Selection of Committee on Committees

Sec. 73. The members of the committee are usually suggested by the party caucuses. If the foregoing resolution is adopted by a majority vote the committee proceeds to name the members of the committees and report the same for the ratification of the Senate, which requires a majority vote. Committees have no powers or authority except such as is specifically delegated to them by the body creating the committee.

Committee Powers Limited

Sec. 74. **Committee an Agent.** — **The committee is merely an agent of the main body** and all its acts are subject to review and adoption or rejection by the appointing power. In other words no committee shall act with the idea that its action is final.

Committee Action Not Final

It should be remembered by all legislative committees that the purpose of their appointment is merely to divide the business of the assembly by referring various legislative matters to them for consideration, examination and report with recommendation for action by the entire body.

Committees Should Report

Sec. 75. While it is true that committees do sometimes hold bills in committee **and refuse or wilfully neglect to report them with recommendations**, or using the more comprehensive legislative term, **kill bills in committee. Yet when this is done such committee is usurping powers which belong to the entire body**, and not to committee. Frequently the Houses resent this usurpation of authority and recalls the bill or other matter from the committee.

Committees Should Report All Matters

Sec. 76. It is the part of wisdom for committees to report to the House all matters referred to them with carefully prepared recommendations to the House for disposing of said matters. The recommendations of committees would be more frequently followed by the House if the committee would set forth in their reports reasons for their conclusions and recommendations. In other words, if the committee reports a bill adversely, tell the House why the bill should not pass. Judge Edmund G. Cushing says in his parliamentary practice Sec. 281. "And even if the committee are opposed to the whole paper, and are of the opinion that it cannot be made good by amendments, they have no authority to reject it: they must report it back to the assembly, without amendments (especially stating their objection, if they think proper), and there make their opposition as individual members."

Duties of Standing Committees

Sec. 77. The duties of standing committees are prescribed or understood to be generally to originate bills or resolutions, but only upon subjects referred to them for that purpose, and touching matters coming within their jurisdiction. **To inquire into, consider and report such matters as in their opinion the public good requires and on all matters referred to them, and without unreasonable delay.**

Select Committees

Sec. 78. Select committees or nursing committees, as they are contemptuously referred to in the New York Assembly, because of Mr. Jefferson's rule for their selection "that the child is not to be put to a nurse that cares not for it", are always selected because they are favorable to the proposition submitted to their consideration.

Committee Reports Not Read

Sec. 78-a. In practice reports of committees usually are not read in full, the printing of such reports in the journals generally renders the reading of them unnecessary.

Chairman of Committees

Sec. 79. In the House the speaker names the chairman. In the Senate they are named by the committee on committees. On this subject the House has no rule being guided by the general parliamentary law which is given by Mr. Jefferson as follows:

Who to Act in Absence of Chairman

Sec. 80. **Committee may Select Chairman.** — "The person first named is generally permitted to act as chairman, but this of course is a matter of courtesy, every committee having a right to elect their own chairman, who presides over them, puts questions, reports their proceedings to the House." (Jefferson.) In the absence of the chairman, the second named member is the acting chairman and so on down the list.

Sec. 81. But what Mr. Jefferson speaks of as courtesy has come to be a usage in our practice, the designation by the Speaker or Senate committee having never been rejected, reversed or changed by the committee itself. (The foregoing rule is the rule of Congress.)

Organization of Committees

Sec. 82. As soon as possible after the appointment of the committees, it is the duty of the chairman of each committee to consult the clerk for a place of meeting and then call his committee together to complete its organization. The clerk or speaker will announce the time and place of meeting of committees if requested so to do by the chairman. The chairman having been previously selected **the only other officer needed is a secretary whose selection should be reported to the clerk.**

When Committee May Not Meet

Sec. 83. **Unless the time for the meeting of a committee has been specifically expressed by the body no committee may meet when the House is in session unless permission to do so has been granted by the House.**

Committee Rooms in Charge of Clerk

Sec. 84. **Committee rooms are in charge of the clerk in the House.** He, therefore, fixes the place of committee meetings.

Opinion of Members May Not be Taken Separately

Sec. 85. **A quorum of committee is necessary to transact business. A quorum of a committee must meet formally to transact business. The opinions of the members cannot be taken separately, nor can the chairman or other member of a committee circulate a report to procure the signatures of a majority of the members and submit same as a report of the committee. Everything agreed upon by the committee must have been submitted to the committee in actual session and an opportunity given for discussion. (Rule of Congress and Parliament.)**

Committee Must Consider Bill Before Reporting

Sec. 86. **It is irregular for a committee to make a report of a bill or other matter when no meeting of the committee has been held for its consideration and it is the duty of the clerk to reject such report if he be acquainted wit the facts.** In discussing this question Edmund Cushing says a committee is essentially a miniature assembly: it can only act when regularly assembled together as a committee and not by separate consultation and consent of the members, nothing being the agreement or report of a committee but what is agreed to in that manner.

Order of Consideration in Committee

Sec. 87. **It is customary for committees to take up for consideration subjects referred to them in their order of reference.** However, it is permissible for a committee upon motion and question put to take up out of order pressing and important subjects.

How Business Is Transacted in Committee

Sec. 88. The business of a committee is transacted with less formality than does the deliberative body which creates it. The members are permitted to speak as often as they please and are not required to stand when addressing the chair. But all rules which govern motions and questions in the Senate and House are equally applicable to committees.

Section 85 Qualified

Sec. 89. The rule that a committee can only act when together and not by separate consultation and consent, nothing being a report except what has been agreed to in committee actually assembled is subject to qualification as when a committee is directed by the body to amend a bill or other matter and **report "forthwith."** In such case, **having no time for meeting and consultation nor any discretion to exercise they have no alternative but to comply with the order of the House.** In this case the chairman should at once make out his report as follows: Your committee to which was referred (number of bill) with instructions to report same with the amendment or amendments of the House as instructed (here should follow the amendment or instructions) it should be signed by the chairman.

Reconsideration in Committee

Sec. 90. Mr. Roberts says the reconsideration of a vote is allowed in the committee regardless of time elapsed but only when every member who voted with the majority is present when the reconsideration is moved.

Consent to Meet During Session

Sec. 91. **If it be necessary for a committee to meet during the sessions of the House, they can do so only by consent of the House.** To get this consent the chairman should make a motion to that effect, asking permission.

How Members May Dissent From Committee Report

Sec. 92. It frequently happens that on certain measures several members of a committee may desire that it appear upon the journal record that they do not agree to the report of the bill, **but dissented therefrom.** This they have the right to do and to have such fact noted in the report.

How to Dissent From Committee Report

Sec. 93. In such case, following the signatures of the committee recommending the report, may be written: **"The following member or members who have or have not personally attached their signatures have, or do dissent from this report."**

.....Senators.

Committee Reports — Rules for Making

Sec. 94. In making out reports the following rules should be observed by the secretary or the person making out the report. A separate report should be prepared for each bill or other paper to be reported by the committee.

How to Prepare Reports

Sec. 95. The original bill received by the committee from the clerk, must be returned with the report. It should be pinned to the report but must not be permanently attached thereto. If a bill is amended by the committee a statement of such amendments must be written out in full upon the blank report and such statement **must indi-**

cate the line or lines in which amendments are made and the words to be inserted or stricken out. Such words should always be enclosed in quotation marks so as to show in detail and proper form all amendments made to the bill.

Careful Preparation of Reports

Sec. 96. The necessity for exercising care in the preparation of amendments **is to insure the completed bill against error.** From these reports and amendments made in the House the clerk must engross the bill in its final form for passage. If amendments and **committee reports are drawn up without due care and are not plain and intelligible** the clerk must follow them as best he can in engrossing, **and even when he finds an error he has no authority to change it. He must follow his copy.** Many mistakes that creep into bills are there because of the carelessness of members in drawing up committee reports and amendments.

Abbreviations Not Permitted

Sec. 97. In writing out amendments and in the report it should be remembered that **it is not permissible to use abbreviations of any kind and no figures are allowed except for section and line numbers and appropriation bills.**

Sec. 98.* Each line of a bill is separately numbered and if amendments are made by striking out certain words or lines of a bill or by inserting words in the bill, the number of the line or lines must be stated where the words are to be stricken out or inserted in describing the amendments made. All words stricken out should be written out in full and duplicate copies sent to the clerk.

Reporting Substitute Bills

Sec. 99. If a substitute bill is reported for the original bill two copies of the substitute bill must be sent to the clerk's desk, one attached to the report for the

journal, the other attached to the original bill to be sent to the printer, if so ordered by the House. **It is never permissible to make notations on an engrossed bill referred to a committee.**

Considering Bills in Committee

Sec. 100. The usual manner of considering bills in committee is by sections. In other words, the chairman or secretary reads the first section and then gives time for consideration and amendment, before reading the next section. After the bill has gone through with, the question is put on reporting and the kind of report to be made. Then a motion should follow designating the member to make the report. No vote is taken on the separate sections but on the whole bill, after considering the last section; then entire bill is again open for amendment.

Sec. 101. **A report signed by a majority of the committee is valid, although a necessary one of that majority does not concur in all the statements of that report.** (Hinds.)

Sec. 102. Objection being made that a report has not been properly authorized by a committee, and if there be doubt as to the authorization, **the question as to reception should be submitted to the House.**

Sec. 103. In the first session of the Thirty-seventh Congress the judiciary committee of the House did not make a report. The only way they could get anything out of that committee and before the House **was to direct the chairman to report bills without recommendation for action and request the House for time for the members of the committee to prepare and file their individual views on the subject.**

Sec. 104. In Congress bills are referred to committees at the beginning of a session **before the actual appointment of the committee.** This has also been done in the Ohio House.

Privileged Committee Reports

Sec. 105. Reports of the enrollment, calendar and rules committees and the committees of conference are privileged and may be made at any time when no other business is pending.

Adverse Committee Reports

Sec. 106. After careful consideration of bills, committees sometimes do not desire to recommend a bill favorably, and very often they are agreed that the bill should not pass but because of the slight consideration given to committee reports by the Houses, they are reluctant to report even adversely, preferring to hold the bill in committee. This latter practice is unfair and unparliamentary for the reason that in so doing a few members **take unto themselves the authority to speak and act for the entire body. Committees may not in this way express their opinion on bills.**

Sec. 107. When committees are opposed to a bill and cannot put it in satisfactory shape they should report the bill stating that fact or they could report adversely in several ways: By recommendation that the bill do not pass; that it lay on the table; that it be indefinitely postponed; that it be not engrossed; that the enacting clause be stricken out or without recommendation.

Sec. 108. In the present practice of the House if a committee recommendation is agreed to, it thus becomes the action of the House, the same as though the motion for such action had been made directly from the floor. If the committee should recommend that the bill lay on the table, and it is agreed to by the House, the bill goes to the table without further action by the House. **No motion is made nor is it necessary.**

Sec. 109. The report of the committee when read carries with it the motion on agreeing which is supposed to be pending. **If objection should be made the chair would then put the question directly on laying on the table.** No objection being made the chair orders the rec-

ommendation of the committee to be carried out. Carrying this parliamentary principle to its final analysis its effect on a bill reported adversely would be to reject it and such bill should not be placed on the calendar.

When Motion Is Pending

Sec. 110. In instances like this the rule of congress should be rigidly enforced, that adverse committee reports agreed to, cannot go on the calendar, unless the committee makes such recommendation when making its report, or some member makes a motion to the same effect within three days after the report of the committee is received.

Sec. 111. This rule is founded on common sense for nothing can be gained by encumbering the records with matters once adversely disposed of. This motion to place on the calendar should always be treated as a privileged motion. Otherwise the three days period might elapse before the order of business would be reached when the motion would be in order.

Motion to Place Adverse Report on Calendar

Sec. 112. That there be no delay in the advancement of the bill, should the House desire to take up and advance the bill, the motion to place an adversely reported bill on the calendar should be entertained at any time when no other business is pending, or it should have equal privilege with the motion to reconsider.

Bills May Not Be Reported Adversely With Amendments

Sec. 113. **Adverse reports in our practice cannot be accompanied with amendments**, but in congress such reports are admitted, but such reports are framed entirely different from the reports used in our practice. The following will serve as a fair example of reports that are not admissible and should be rejected by the clerk.

Adverse Report of Committee

Sec. 114. The standing committee on taxation to which was referred H. B. No. 223 — Mr. Beetham, having had the same under consideration, reports it back with the following amendments and without recommendation.

Why Report Not Acceptable

Sec. 115. It may be asked why this report should be rejected. Such a report is incongruous. It contradicts itself. It recommends that the bill be amended and then tells the House that the committee makes no recommendation, or in other words denies its recommendation.

Sec. 116. When the committee desires to amend a bill so that if passed it would be in a more acceptable form, a form of report similar to the following should be used. It will accomplish what the committee desires to do and will be more intelligible:

Reporting Adversely With Amendments

Sec. 117. The standing committee on taxation to which was referred H. B. No. 223 — Mr. Beetham having had the same under consideration reports it back with the following amendments and further than this the committee makes no recommendations, each member of the committee reserving the right to take such action in the House as to him may seem best when the bill is considered.

Report Adversely With Recommendation to Indefinitely Postpone

Sec. 118. The standing committee on taxation to which was referred H. B. No. 223 — Mr. Beetham, reports the same adversely, and moves that it be indefinitely postponed.

Regular Form of Committee Report

Sec. 119. The following form for a committee report has been in use in both House and Senate for many years for bills with amendments.

The standing committee on agriculture to which was referred S. B. No. 1181 — Mr. Parrett, having had the same under consideration, reports it back with the following amendments:

In line 13 strike out the word "women" and insert in lieu thereof "female".

In line 15 strike out the word "men" and insert in lieu thereof "male", and recommends its passage when so amended.

Sec. 119-a. **A verbal report is never received in either House or Senate as the report of any committee.**

Sufficiency of Report

Sec. 120. Every bill reported from committee, must be accompanied by a written report and **the sufficiency of the report is passed on by the House and not the Speaker or President. The report of a committee does not necessarily contain a recommendation for action. It may report simply a finding of facts.**

Report When Committee Cannot Agree

Sec. 121. When it appears impossible for a committee to reach an agreement such fact should be reported to the House. The following report was made in the National House of Representatives relative to a contested election case: "A majority of the committee have been unable to agree, four members of the committee are of opinion the bill should pass and the remainder of the committee are opposed to the bill and insist it cannot be made satisfactory by amendment."

Minority Report or Views of Committee

Sec. 122. In his discussion of minority reports Mr. L. S. Cushing says: "These views are sometimes submitted under the somewhat incongruous name of **minority reports**, when they are in no sense reports. They are received by the courtesy of the House, expressed by the ordin-

ary vote of a majority and usually receive the same destination with the report, that is they are printed and considered in the same manner. But they are not in any sense parliamentary reports nor entitled to any privilege as such and their only effect is, in the first place to operate upon the minds of members as arguments and secondly, to serve as the basis for amendments to be moved on the resolution or other conclusion of the report."

Sec. 123. The minority members of a committee may collectively or individually present their views with the committee report. Unless filed with the report they can be presented only by consent of the House.

Sec. 124. Ruling on the acceptance of a minority report in Congress, Speaker Kiefer said: "The chair would state that **there is no such thing as a minority of a committee to make a report. A committee has no right to report except as a committee. The receiving of a minority report is a mere matter of courtesy.**" Speaker Blaine made a similar ruling.

Sec. 125. The practice of Congress appears to be that the views of the minority of a committee must be filed in the House with the report of the committee and printed in the journal with the report.

Amendments for Transposition of Sections, Etc.

Sec. 126. Sometimes it is desirable to transpose sections, paragraphs or other matter in bills. The usual practice in the House to accomplish this result is to move to instruct the clerk to make such transposition, but this plan is objectionable and unparliamentary and should not be followed.

Sec. 127. The proper procedure in cases of this kind is to follow the rule of Jefferson and the practice of our National Congress which is as follows: First, move to strike out the matter where it stands and then move to insert in the place the section desired. In following this latter plan mistakes are not so likely to occur.

Dividing and Consolidating Bills

Sec. 128. In the House of Representatives of Congress bills are joined by offering the text of one as an amendment to the other, **but under the rules of the Ohio House this action is not permissible except by unanimous consent or suspending rules.** Rule 76 expressly providing against this action, however, the Senate has no such rule. Where it is proposed to divide, it may be done by referring to a committee with instructions to make such division and report two bills. Two bills could be joined in the same way. But in making these references unanimous consent should be asked to suspend the rules for this purpose.

Sec. 129. In dividing a bill into two bills, one bill retains the old number, the other should be introduced by the committee, when the clerk will furnish a new number. The new bill will need to go through the several stages as other bills, except there will be no necessity of referring it back to the committee for consideration; having been considered and reported by the committee it would be a useless waste of time. In fact, it should, under suspension of the rules, be advanced to the stage of the original bill and be placed on the calendar with it, so that both bills could be considered as nearly together as possible. When bills are joined, of course it is necessary to discard one of the numbers.

Form of Report When Bills Are Divided by Committee

Sec. 130. When bills are divided the following form will help the members in making out report to be submitted to the House.

Your committee on to which was referred H. B. (title) with instructions to divide into two bills, reports that they have followed instructions and report the original bill with such amendments as were found necessary in making such division, also report a new bill introduction of which is made with this report. The com-

mittee recommends the passage of both bills and further recommend a suspension of the rules and that the new bill herewith submitted be advanced to the same stage as H. B. No. (title) and the two bills be placed on the calendar together.

.....
Committee.

Form of Report When Two Bills Are Consolidated

Sec. 131. Your committee on to which was referred H. B. No. (number and title) with instructions to consolidate into one bill, report that they have followed instructions and report back ((number and title) with such amendments as were found necessary in making such consolidation in addition to the following amendment. In the head of bill immediately following the name of the author Doe insert a hyphen and the name Rowe, your committee further recommend that H. B. No. (title) be indefinitely postponed and that the bill H. B. (title) be passed. If other amendments are made they should be included in report in the regular way.

Committee Report Without Recommendation

Sec. 132. It may sometimes occur after a committee has fully considered a bill or other matter before them. They feel that the subject matter is such they do not desire to recommend same for passage, neither do they desire to report the bill adversely, but the committee is agreed that the bill should be considered by the whole House, they could then report the bill in the following manner and not express an opinion whatever as to the merits or demerits of the bill.

Form: The Committee on judiciary to which was referred H. B. No..... (title) having had the same under consideration reports it back for the consideration of the House without recommendation, each member of the committee reserving to himself the right to take such course in the House concerning the bill as to him shall appear and seem proper.

Sec. 133. **The fact that a committee cannot agree on a bill under consideration is no good reason why such bill should be withheld from the consideration of the House, the fact of disagreement on the bill should be reported.** A peculiar form of report covering a situation of this kind is found in the United States Senate, as follows: The committee on judiciary having had under consideration the bill of the House H. B. No..... reports it for the consideration of the Senate with the following amendment. A majority of the committee is opposed to the bill when thus amended.

Sec. 134. Another form of report for a condition like the foregoing is for the report to show the division of the committee for and against the bill and requests to be discharged from further consideration of the bill, this latter request anticipates a motion to recommit, which should follow.

CHAPTER IV

PREPARATION AND DRAWING OF BILLS

Preparation and Drawing of Bills in the Ohio General Assembly

Suggestions to be remembered:

Sec. 135. 1. **A bill must not contain more than one subject.**

2. **The title must contain a brief description of the subject matter.**

3. **In amending existing laws, asterisks must be used to indicate any omitted matter.**

4. **All new matter inserted in existing law must be shown by underscoring.**

5. **When the bill proposes to amend existing law it must contain a repealing clause of the original section.**

6. **Bills must be typewritten or printed and only on one side of paper.**

7. **Bills must be introduced in duplicate unless otherwise provided by rule.**

8. **Every bill must contain the enacting clause.**

* * * *

The first step in law making is the preparation of the subject matter a member desires to introduce for the consideration of the House. Whether it be a petition, motion, amendment, resolution or bill, care should be exercised in its preparation.

After determining upon the subject matter to be incorporated in a bill or resolution, the member should secure the proper forms upon which to typewrite the bill, from the superintendent of stenographers, and if he desires the work will be done by that department. Or mem-

bers may have bill drawn and prepared by the Legislative Reference Library at any time by requesting that service which is free.

As a member proceeds to draft his bill in proper form his attention should first be directed to the title of the bill. The title commences with the words, "A. BILL to, etc." It must contain a brief description of the subject matter set forth in the body of the bill. If the purpose of the bill is to amend or repeal existing law, the number of the section of the General Code to be amended or repealed and a description of the subject should be added. (See Constitution Art. 11, Sec. 16.)

Preparation and Drawing of Bill — Its Various Parts Explained

Sec. 136. Bills are composed of several very essential and distinct parts, the absence of any of them being sufficient reason for the rejection of the bill by the clerk when the bill is introduced. If error is detected by a member he may move rejection. The clerk may, however, correct the bill, if he can do so readily and without making too great a demand on the time of the body. **It is the general practice, however, for the clerk to call the attention of the member to the deficiencies in his bill, and permit him to withdraw same temporarily to make the needed corrections himself.**

THE IMPORTANT PARTS OF A BILL TO BE OBSERVED IN DRAWING SAME ARE AS FOLLOWS:

Sec. 137. **Every bill must carry a number, name of author, date, title, enacting clause, purview or body, divided into sections or clauses of convenient length.**

Sec. 138. **Number** — When bills or resolutions are introduced the space for the number is left blank, such number being supplied by the clerk at his desk when introduced, all bills and resolutions are numbered consecu-

tively and in the order they are received. Numbers given to bills or resolutions are not subject to change or amendment. The number is usually placed at the head of the bill, in the right hand corner of the first page thus (No. 574).

Only title, author and number of bill are printed in Journal, but resolutions and amendments are printed in the Journal in full.

Sec. 139. **Date.** — Consists of the number or name of the assembly, the year, month and day not being used, also shows whether it is a regular, special or extraordinary session. This is usually placed in the left hand corner, first page thus:

(83rd General Assembly }
Regular Session, 1919) }

Sec. 140. **Author.** — Below the date and number should appear the name of the author, or more properly speaking the name of the member who introduces the bill in either body thus: Mr. Federman. Below the name of the author on a separate line should appear the words in capital letters "A BILL" and immediately following underneath this, the title.

Sec. 141. **Title.** — The title, enacting clause and body of bills have been thought to be of so great importance that they have been made subjects of constitutional requirements. The title of a bill or resolution is the short statement prefixed to it showing the purpose or object of the bill. The preparation of the title is provided for in the constitution as follows: "**No bill shall contain more than one subject which shall be clearly expressed in its title.**" Art. II, Sec. 16, O. C. The title of course is no part of the law, but is the name and description of the bill given to it by the author. The title, whether long or short, should be such as to "**clearly express**" the subject matter contained in the bill. (See Secs. 883-884-885, this manual.)

Sec. 142. **Bills Introduced without Title.** — If a bill

is introduced without title the clerk usually returns the bill to the member for correction. He may, however, if he chooses, furnish the title. If the title is insufficient the clerk usually completes same. **It is, however, more satisfactory to return bill to the author for correction.**

Sec. 142a. **Preamble.** — In common parliamentary procedure the preamble would follow the title and precede the enacting clause. Preambles are very sparingly used in the Ohio Assembly, in fact are frowned upon, and frequently have been rejected. Usually when found in bills **the clerk by direction of the speaker, strikes them out before being printed.** We find, however, that one or two assemblies have permitted preambles, but the unwritten rule is against them, and with the foregoing exception the rule of not permitting preambles, has been generally observed. In the 81st and 83rd assemblies, by agreement between the officers of the House and Senate, preambles containing not more than three hundred words were permitted to be placed at the end of a bill in the form of a statement. Such statements were printed with the bill; these statements, however, are **always removed when the bill is engrossed or enrolled to prevent such statements being published with the laws in the session laws or year book.**

Sec. 143. **Enacting Authority.** — In view of the fact that in the Ohio practice the preamble is not permitted at the head of a bill, the next important part of the bill after the title is the enacting clause. The enacting authority is provided by the constitution in Ohio, **no bill can become a law unless it contains the enacting style or clause or authority.** The enacting authority of Ohio is as follows: Sec. 18, Art. 11, Const. **The style of laws of this state shall be, "Be it enacted by the General Assembly of the state of Ohio."** If the enacting words are written by hand or typewriter they should be underscored, so when printed the printer will put them in Italics. In our practice the enacting style follows the title and precedes the body of the bill.

Sec. 144. **Body or Purview of Bill.**—This is the part of the bill in which the will of the assembly, with respect to the particular subject is to be declared. It is always divided into a convenient number of sections, corresponding as nearly as possible to the several parts embraced in the proposed laws. The drawing of a bill for introduction is a matter of no trifling concern, not considering the character of the law it is to become. Mr. L. S. Cushing says "Where a bill is hastily brought in (meaning prepared) it generally requires mature deliberation and many amendments in its progress through the assembly, which always takes up a great deal of time. Whereas, when it is maturely considered before being drawn and introduced the first draft of the bill should be so perfect, that it would require but few amendments and the rapidity of its progress always bears a proportion to the maturity of its first concoction." The preparation of the body of the bill is of such importance as to invite the attention of the makers of the constitution.

Sec. 145. In Sec. 15, Art. 11, we find the language, **"No bill shall contain more than one subject which shall be clearly expressed in the title."** There is still another very important provision in the organic law of the state relative to drawing bills. It is also a part of Section 16, Article 11 and is as follows: **"No law shall be revived or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed."** As to the form of bills the joint rules of the assembly and the rules of each branch must be observed. (See Joint Rule No. 3, Senate Rule No. 61.)

The joint rules also provide how bills amending existing statutes shall be drawn. These requirements are found in Joint Rules 4 and 6 and Senate Rules 62 and 63.

Forms For Titles

Sec. 146. **When the subject matter is new, it should read:**

A BILL

To provide for the administration of criminal justice and to increase the powers of prosecuting attorneys.

* * * *

When the purpose of the bill is to amend existing law, it should read:

A BILL

To amend section 4303 of the General Code, relating to the title and office of city solicitors in cities, fixing term of office and salary.

* * * *

When the purpose of the bill is to supplement existing law, it should read:

A BILL

To supplement section 7644 of the General Code by the enactment of a supplemental section, relative to establishing elementary schools and fixing the length of the school year.

* * * *

When the purpose of the bill is to supplement a supplemental section, it should read:

A BILL

To supplement supplemental section 11418-1 of the General Code by enacting a supplemental section, relative to jury drawing when commissioners or infirm directors are parties thereto.

* * * *

When the purpose of the bill is to amend and repeal a law in conflict with the proposed change in the law, it should read:

A BILL

To amend sections 5808, 5809 and 5811 and to repeal section 5816 of the General Code, relative to animals running at large.

* * * *

When the purpose of the bill is to amend, supplement and repeal in the same bill, it should read:

A BILL

To amend sections 1831, 1832 and 1847, and to supplement section 1831 by the enactment of a supplemental section and to repeal section 1944 of the General Code relative to the management of the Ohio Soldiers' and Sailors' Orphans' Home.

* * * *

When the purpose of the bill is to amend, repeal or supplement, as the case may be, any law passed at a former session of the Assembly, and not printed in the General Code, the title should read:

A BILL

To amend section 2 of an act entitled "An act to establish a criminal court in the city of Lorain, Lorain county," passed May 10, 1910 (O. L. Vol. 101, page 387.)

First Section

Sec. 147. Following the enacting clause comes the first section of the bill, which varies according to the purpose and subject matter. In most instances when the purpose is to amend, repeal, or supplement an existing law the wording of section 1, follows closely that of the title. If the subject matter is all new then the author prepares section 1 as he desires that section to read.

When the bill contains all new matter it should read:
Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. When a domestic fire insurance company, etc. (Subject matter continues.)

SECTION 2. (Subject matter.)

SECTION 3. (Subject matter.)

When the purpose of the bill is to amend existing law it should read:

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 4303 of the General Code be amended to read as follows:

Sec. 4303. The solicitor shall be elected, etc. (Here follows section 4303 in full with the changes desired inserted or omitted as the case may be.)

Last Section or Repealing Clause

Sec. 148. After the subject matter has been disposed of and the purpose of the bill is to amend an existing law, the last section should be a repealing clause, as follows:

SECTION That said original section 4303 of the General Code be and the same is hereby repealed.

All bills which seek to amend existing sections must conclude with the repealing clause.

Original Section Repealed

Sec. 149. The Constitution provides that when a law is amended the original law must be repealed. All acts of the General Assembly become effective ninety days after passage if approved or not vetoed by the governor or referred to the people. Therefore an additional section providing that "This act shall take effect on its passage" is no longer necessary.

The Word "Section"

Sec. 150. In examining the following forms, attention is called to the use of the word **"section"** and the abbreviation **"sec."**

Sec. 151. The word "section" is used for new matter, that is, when the bill is intended to enact an entirely new law. The sectional numbers should run consecutively, and in each instance the word "section" should be used thus:

SECTION 1.

SECTION 2.

SECTION 3.

The Abbreviation "Sec."

Sec. 152. This abbreviation is used when a bill is drawn to amend or supplement sections of the General Code or session laws. Section 1 of all bills, is new matter in so far as it sets forth the purpose of the bill and the word "section" should always be used in the initial section. Following this should be the section or sections to be amended or supplemented and the abbreviation "sec." should precede the numbers of the sections, thus, "Sec. 4592. Whenever any person, etc." In fact, sec 4592 becomes a part of section 1 of the bill. If a bill were before the House to amend sec. 4592 and a motion was made to strike out all of section 1 of the bill, if adopted it would take from the bill sec. 4592.

The word "section" should always precede the repealing section.

Numbering of Bills

Sec. 153. When bills and resolutions are introduced they are given consecutive numbers by the clerk before being read. These numbers are not subject to change or amendment.

Forms of Bills

When the bill contains all new matter.

* * * *

.....General Assembly. }	
Regular Session, 19..... }	H. B. No.....

MR. BROWN.

A BILL

To provide for the administration of criminal justice and to increase the powers of prosecuting attorneys.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. The prosecuting attorney may, etc.

SECTION 2. (Subject matter.)

SECTION 3. (Subject matter.)

When the purpose of the bill is to amend existing law.

.....General Assembly.	}	H. B. No.....
Regular Session, 19.....		

MR. SMITH.

A BILL

To amend section 4303 of the General Code, relating to the title and office of city solicitors in cities.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 4303 of the General Code be amended to read as follows:

Sec. 4303. The city solicitor shall be chosen for a term of * * * *four* years, commencing on the first day of * * * *February* after his election, etc.

SECTION 2. That said original section 4303 of the General Code, be and the same is hereby repealed.

NOTE.—The italics indicate new matter and the asterisks the matter omitted.

* * * *

When the purpose is to supplement existing law.

Regular Session, 19.....	}	H. B. No.....
.....General Assembly.		

MR. JONES. (By Request.)

A BILL

To supplement section 7644 of the General Code by the enactment of a supplemental section of the General Code, relative to establishing elementary schools and fixing the length of the school year.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 7644 of the General Code, be supplemented by the enactment of an additional section of the General Code, to read as follows:

Sec. 7644-1. (Subject matter.)

When the purpose of the bill is to supplement a supplemental section.

Regular Session, 19.....	}	H. B. No.....
.....General Assembly.		

MR. JAMES.

A BILL

To supplement supplemental section 11418-1 of the General Code, relative to jury drawing when commissioners of infirmary directors are parties thereto.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 11418-1 of the General Code be supplemented by the enactment of a supplemental section to read as follows:

Sec. 11418-1a. (Here follows subject matter.)

* * * *

When the purpose of a bill is to amend and repeal a law in conflict with the proposed amended law.

Regular Session, 19.....	}	H. B. No.....
.....General Assembly.		

MR. JENKINS.

A BILL

To amend sections 5808, 5809 and 5811 and to repeal section 5816, of the General Code, relative to animals running at large.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 5808, 5809 and 5811 of the General Code be amended to read as follows:

Sec. 5808. (Here follows the section with changes desired.)

Sec. 5809. (Here follows the section with changes desired.)

Sec. 5811. (Here follows the section with changes desired.)

SECTION 2. That said original sections 5808, 5809, 5811 and section 5816 of the General Code be and the same are hereby repealed.

* * * *

When the purpose of a bill is to amend, supplement and repeal.

Regular Session, 19..... }General Assembly. }	H. B. No...,...
--	-----------------

MR. WILLIAMS.

A BILL

To amend sections 1931, 1932 and 1937 and to supplement section 1931 by the enactment of a supplemental section, and to repeal section 1944 of the General Code, relative to the management of the Soldiers' and Sailors' Orphans' Home.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1931, 1932, 1937 and 1940 of the General Code be amended and section 1931 be supplemented by a section to be known as section 1931-1, to read as follows:

Sec. 1931. (Here follows section with changes desired.)

Sec. 1932. (Here follows section with changes desired.)

Sec. 1937. (Here follows section with changes desired.)

Sec. 1931-1. (Here follows the supplemental matter to the section.)

SECTION 2. That said original sections 1931, 1932 and 1937 and section 1944 of the General Code be and the same are hereby repealed.

* * * *

When the purpose is to amend, supplement or repeal as the case may be any law passed at a former ses-

tion of the Assembly and not yet published in the General Code.

Regular Session, 19..... }	H. B. No.....
.....General Assembly. }	

MR. KIMBALL.

A BILL

To amend section 2 of an act entitled "An act to establish a criminal court in the city of Lorain, Lorain county," passed May 10, 1910. (O. L. Vol. 101, page 387.)

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 2 of an act entitled "An act to establish a criminal court in the city of Lorain, Lorain county," passed May 10, 1910, be amended to read as follows:

Sec. 2. (Here follows the section with changes desired.)

SECTION 2. That said original section 2, of an act entitled "An act to establish a criminal court in the city of Lorain, Lorain county," be and the same is hereby repealed.

Emergency Bills

Sec. 154. Emergency bills are those which become effective immediately following the approval of the Governor. A referendum vote cannot be applied to them. Under the Constitution all bills which are intended to take effect immediately after passage and approval of the Governor (with the exception of those provided in the Constitution) must contain an emergency clause fully setting forth the reasons for such emergency. The emergency section should be the last section of the bill, under our practice, and must be adopted by a two-thirds vote. If the emergency section is adopted, it requires a two-thirds vote to pass the emergency bill.

Form of Emergency Section

Sec. 155. We have examined the emergency section attached to bills in several states and we are of opinion that the following is a safe form to be used:

Form:

Sec. 156. SECTION —. This bill is hereby declared to be an emergency bill. That its enactment into law is necessary for the preservation of the public peace, safety and welfare of the inhabitants of the state of Ohio, and that the provisions of this bill shall be enacted into law and become effective at the earliest possible time, and shall take effect and be in full force from and after its passage and approval by the governor. The necessity therefor lies in the fact that (here state the reason for such necessity).

Title for Emergency Bill

Sec. 157. To the end that there shall be no misunderstanding as to the purpose of the bill the constitution of the state provides that the subject matter shall be fully expressed in the title. For this reason any emergency bill that is introduced should state in the title that it is an emergency bill.

Form of Emergency Title**A BILL**

Sec. 158. To appropriate money to pay the cost of rental, porter service, cost of moving and other expense necessary to the location and maintenance of state offices and to declare an emergency.

The foregoing emergency title is the form used in Indiana.

CHAPTER V

RESOLUTIONS

Sec. 159. Resolutions as used in the practice of the Ohio General Assembly are of two kinds; House or Senate and Joint Resolutions. The former needing only adoption in the body in which they are introduced and the latter by both the Senate and House to make them effective.

Sec. 160. **When Considered.**—House or Senate Resolutions, pertaining to the day on which they are offered are usually considered at once and a yea and nay vote is not required. Resolutions that would cause debate and not affecting the business of the day lie over under the rules one day before being considered, providing the rules are not suspended. Joint Resolutions lie over one day before being considered unless otherwise ordered by the House.

Joint Resolutions are not read three times as are bills, but usually they are referred to appropriate committees for consideration and recommendation.

Sec. 161. **Printing of.**—Joint Resolutions are printed under the rules.

Sec. 162. **Force and Effect of.**—Joint Resolutions have the force and effect of law, according to a recent decision of the supreme court, but money cannot be appropriated from the general funds of the state by resolution. After money has been appropriated by law, and set aside for a fixed purpose, it may then be expended by resolution.

Sec. 163. **Example of.**—For example, the General Assembly by law appropriates \$10,000 for contingent expenses of the House, to draw from this fund, it is necessary for the House to adopt a resolution setting forth to whom the money is to be paid and for what purpose.

Sec. 164. **Governor Does Not Approve.** — Resolutions are not referred to the Governor for his approval or disapproval. They become effective immediately after the signature of the presiding officers of the two Houses are attached thereto.

Forms of Resolutions

Sec. 165. House resolutions begin:

Resolved, That, (Here follows subject matter).

Joint Resolutions begin:

Be it resolved by the General Assembly of the State of Ohio: That, (Here follows the subject matter).

JOINT RESOLUTIONS.

Proposing Constitutional Amendments.

81st General Assembly }
Regular Session

H. J. R. No.....

Mr.....

JOINT RESOLUTION.

Proposing an amendment to article II, section 2 of the constitution of the state of Ohio, relative to the election of senators and representatives of the General Assembly.

Be it Resolved by the General Assembly of the state of Ohio, three-fifths of the members elected to both Houses concurring therein:

That there shall be submitted to the electors of the state, in the manner provided by law, on the first Tuesday after the first Monday in November,, a proposal to amend article, section, of the constitution of the state of Ohio to read as follows: (Here follows section with proposed amendments.)

Be it further resolved, That at such election herein provided for the submission of this amendment to the electors of the state, this amendment shall be placed on the official ballot in the manner prescribed by law and designated as follows: "Quadrennial election of senators and representatives" or in such other language as shall be suf-

ficiently clear to designate it. If adopted this amendment shall take effect and be in force on the first day of (insert date).

FORMS OF RESOLUTIONS AND MESSAGES

Resolution Providing for Inauguration of Governor-Elect

..... General Assembly. } H. J. R. No.....
Regular Session, 19.... }

Mr.....

Sec. 166. Relative to the inauguration of the Governor-elect.

Be it Resolved by the General Assembly of the State of Ohio:

That a committee of five, on the part of the House and on the part of the Senate, be appointed to make necessary and suitable arrangements for the inauguration of the Governor-elect,, on Monday, Jan-

It will be noted in the foregoing resolution that the number of the committee to be appointed by the Senate is left blank for that body to fill in. It would be discourteous for either house to fix the number of members to be placed on any committee by the opposite body. Therefore it is customary to leave the space to be filled in, which is later approved by the other house.

* * * *

Resolution for Joint Convention to Canvass Vote for State Officers

..... General Assembly. } H. J. R. No.....
Regular Session, 19.... }

Mr.....

Sec. 167. Relative to canvassing the vote for state officers.

Be it Resolved by the General Assembly of the State of Ohio:

That the two Houses of the general assembly meet in joint convention, in the Hall of the House of Representa-

tives, in accordance with the constitution and the law, on Tuesday, January . . . , 19. . . , at eleven o'clock, A. M., to witness the opening of the votes cast at, and hearing the publishing and declaring of the result of the election held on the first Tuesday after the first Monday in November, 19. . . , for governor and other constitutional state officers.

* * * *

Choice of Seats

..... General Assembly. }	H. R. No.....
Regular Session, 19. . . }	

Mr.....

Relative to the choice of seats.

Sec. 168. *Resolved*, That the choice of seats be determined by lot; that the clerk prepare the necessary ballots with the names of members thereon, one upon each ballot so prepared, to be placed in some suitable receptacle, and to be drawn by a page or some other person or persons, who shall be blindfolded, the name upon each ballot to be announced by the clerk as soon as drawn; that the members retire without the bar before the drawing commence; each one to select his seat when his name is announced and continue to occupy it until the drawing is concluded. In the selection of seats all that portion of the hall (here insert the division necessary to accommodate the majority party) shall be reserved for the members of the majority and the remaining to the members of the minority. The following members shall be allowed to select their seats before the drawing: (This privilege is extended to the Speaker pro tem., minority floor leader, elderly, and deaf members.)

Communication from the Clerk

Columbus, O., (Date.)

Hon....., Speaker of the House of Representatives.

Sir:—

Sec. 169. I hereby certify that in addition to the clerks provided for by Section 40 of the General Code, the busi-

ness of the House will require the following additional clerks, namely, a deputy clerk, assistant journal clerk, assistant message clerk, assistant engrossing clerk, index clerk, financial clerk, superintendent of bill room and two bill clerks, and superintendent of stenographers, and I ask that the House provide for their appointment or election.

Very truly yours,

.....
Clerk.

* * * *

Resolution that Usually Follows the Above Request

..... General Assembly.	}	H. R. No.....
Regular Session, 19....		

Mr.....

Sec. 170. Relative to the appointment of additional clerks.

WHEREAS, The clerk of the House of Representatives in accordance with the provisions of section 40 of the General Code, has certified to this body that the business of the House will require the employment of ten additional clerks, namely: a deputy clerk, assistant journal clerk, assistant message clerk, assistant engrossing clerk, index clerk, financial clerk, superintendent of bill room and two bill clerks and a superintendent of stenographers' room; therefore,

Resolved, That the clerk be and he is hereby authorized to appoint such additional clerks, their compensation to be the same as is fixed by law for other clerks, to be paid on vouchers signed by the Speaker of the House.

Communication from the Sergeant-At-Arms

Hon....., Speaker of the House of Representatives.

Sir:—

Sec. 171. I hereby certify that in addition to the sergeant-at-arms provided for by law the business of the House will require the employment of the following ad-

ditional help, namely: One chief doorkeeper and four assistants, two custodians of cloak rooms, four custodians of committee rooms and five janitors and I ask that the House provide for their appointment or election.

Yours very truly,

.....
Sergeant-at-arms.

Resolution that Usually Follows the Preceding Request

..... General Assembly. }	H. R. No.....
Regular Session, 19.... }	

Mr.....

Sec. 172. Relative to the appointment of additional help in the department of the sergeant-at-arms.

WHEREAS, The sergeant-at-arms of the House, in accordance with the provisions of section 40 of the General Code, has certified to this body that the business of the House will require the employment of additional help, namely, one chief doorkeeper and four assistants, two custodians of cloak rooms, four custodians of committee rooms and five janitors, therefore,

Resolved, That the sergeant-at-arms be and is hereby authorized to appoint such additional employees, their salaries to be per day to be paid on vouchers signed by the Speaker of the House.

These requests of the clerk and sergeant-at-arms vary from year to year according to the volume of work to be performed and are usually confined to actual necessities.

* * * *

Resolution Providing Chaplain

..... General Assembly. }	H. R. No.....
Regular Session, 19.... }	

Mr.....

Relative to House Chaplain.

Sec. 173. WHEREAS, It is the pleasure of the members of the House of Representatives to have our daily session opened with prayer; therefore,

Resolved, That a committee of three be appointed by the Speaker to arrange with the Ministerial Association of Columbus for the services of a chaplain or chaplains for this purpose, said chaplain or chaplains to serve without compensation.

* * * *

Resolution Appointing Pages

..... General Assembly. } H. R. No.....
Regular Session, 19.... }

Mr.....

Sec. 174. Relative to appointing additional pages.

WHEREAS, Section 44 of the General Code provides that the Speaker of the House may appoint only five pages and that such number is insufficient for the proper and expeditious transaction of the business of the House, therefore,

Resolved, That the Speaker of the House be and is hereby directed and authorized to appoint five pages in addition to the number provided for in section 44 of the General Code, and that the salary of all pages shall be per day each, and he is authorized to sign vouchers for same.

* * * *

Resolution Appointing Stenographers

..... General Assembly. } H. R. No.....
Regular Session, 19.... }

Mr.....

Sec. 175. Relative to the appointment of stenographers.

WHEREAS, The business of the House will require the services of several stenographers, therefore,

Resolved, That the Speaker of the House be and is hereby authorized and directed to appoint expert stenographers whose duty it shall be to perform the stenographic work for the members and officers of the House, and the Speaker is hereby authorized to sign vouchers for said stenographers at per diem.

Resolution Relative to Rules

Regular Session, 19.... }
 General Assembly. } H. R. No.....

Mr.....

Sec. 176. Relative to rules of the House.

Resolved, That the rules of the House of Representatives of the (insert number of preceding assembly) shall govern this assembly, and be in full force and effect until such time as the committee on rules shall report permanent rules and the same are adopted by the House.

The foregoing resolution should be offered as soon after organization as convenient.

* * * *

Resolution to Rent Typewriting Machines

Regular Session, 19.... }
 General Assembly. } H. R. No.....

Mr.....

Sec. 177. Relative to renting typewriting machines.

Resolved, That the clerk of the House of Representatives is hereby authorized and directed to rent a sufficient number of typewriting machines, desks and chairs for the use of the House and clerks during the present session and that the rental for the same be allowed monthly by the committee on Claims against the House, payable from the House contingent fund on the order of the Speaker.

* * * *

Resolution for Stationery

Regular Session, 19.... }
 General Assembly. } H. R. No.....

Mr.....

Relative to providing stationery for members and officers.

Sec. 178. *Resolved*, That the sergeant-at-arms is hereby authorized and directed to make his requisition upon

the secretary of state for the following stationery for the use of the members and officers of the House, to-wit: One thousand individual letter-heads and envelopes for each representative and the same number for the clerk and assistant clerk of the House, and such other officers designated by the clerk, three-fourths of said number of envelopes to be of the size known as No. 6¾, and one-fourth to be of the size known as No. 10; the name of each Representative and officer to be printed on the letter-heads and envelopes allotted to each respectively.

* * * *

Resolution Relative to General Code

Regular Session, 19....	}	H. R. No.....
..... General Assembly.		

Mr.....

Relative to providing sets of General Code for use of members and officers.

Sec. 179. *Resolved*, That the secretary of state is hereby requested and authorized to furnish the sergeant-at-arms of the House of Representatives, for the use of the House sets of the General Code, to be apportioned as follows: To each member one set; Finance committee, one set; Judiciary committee, one set; Code committee, one set; Cities committee, one set; four sets for office of clerk, one for office, one for clerk, one for index clerk, one set for stenographers' room; one set for sergeant-at-arms.

* * * *

Resolution to Pack Contents of Desks of Members

Regular Session, 19....	}	H. R. No.....
..... General Assembly.		

Mr.....

Sec. 180. Relative to packing and shipping contents of the desks of the members.

Resolved, That when the House adjourns sine die, the (generally third assistant sergeant-at-arms), is hereby authorized to box and ship by express, charges prepaid, to each

member and officer the contents of his desk; the charge for making the boxes and express charges to be paid out of the contingent fund of the House on approval of the Speaker. He is also authorized to employ such help as he may require to assist in packing and shipping the property of members of the House, said employes to be paid at the rate of per diem for such services for a period not exceed- (usually ten) days, and the Speaker of the House is hereby authorized and directed to draw his warrant for said expenses, the same to be paid from the contingent fund of the House.

Be it further resolved, That immediately after adjournment of the General Assembly each member of the House is requested to lock his desk and deliver the keys thereto, together with the keys of the postoffice, to the postmaster of the House.

* * * *

Resolution Fixing Mileage of Members

Regular Session, 19....	}	H. R. No.....
..... General Assembly.		

Mr.....

Sec. 181. Relative to mileage of members.

WHEREAS, Section 50 of the General Code of Ohio provides that the members and officers of the General Assembly shall receive two cents per mile each way for mileage once a week during the session from and to his place of residence, by the most direct route of public travel, to and from the seat of government, to be paid at the end of the sessions, therefore,

Resolved. That the Speaker of the House appoint a committee of three to ascertain and report to the House the distance in miles traveled by each member and officer of the House to and from his home to the seat of government, by the most direct route of public travel, as provided in section 50 of the General Code.

Resolution for Sine Die Adjournment

Regular Session, 19.... } H. J. R. No.....
 General Assembly. }

Mr.....

Sec. 181a. Relative to adjournment without day.

Be it Resolved by the General Assembly of the State of Ohio:

That when the Senate and House of Representatives adjourn on, it be to meet on (usually ten days later) at 10 o'clock in the forenoon, and the General Assembly adjourn sine die on at o'clock in the afternoon (or morning).

* * * *

Providing for Printing Additional Bills

..... General Assembly. } H. R. No.....
 Regular Session, 19.... }

Mr.....

Relative to printing additional copies of H. B. No. for the use of the members of the House and Senate.

Be it Resolved by the General Assembly of the State of Ohio:

Sec. 182. That one thousand additional copies of House Bill No., Mr. ("to provide for the appointment of deputy state Tax Commissioners,") be printed for the use of the members of the House and Senate.

NOTE: In the parenthesis the title should always be inserted.

Resolution of Respect on Death of Member

..... General Assembly. }
 Regular Session, 19.... } H. J. R. No.....

Mr.....

Sec. 183. Relative to the death of the Honorable

WHEREAS, The House of Representatives of the.....
 General Assembly has heard with profound sorrow and re-
 gret of the death of the Honorable.....,
 member from county, in the Gen-
 eral Assembly of the State of Ohio; and

WHEREAS, In his death the people of his county have
 lost a true and sincere friend and neighbor, and the state
 of Ohio an honest, wise and patriotic citizen, faithful to
 his duties in both public and private life, his friends only
 numbered by his large acquaintance, all of whom testify
 to his firmness of character and splendid citizenship; there-
 fore,

Resolved, That in the death of the Honorable
, that we mourn the loss of a sincere and fear-
 less servant of the people, whose memory we cherish be-
 cause of his stainless record and the entire state may justly
 join in this tribute to his memory.

Be it further resolved, That we extend to his family
 and friends our deep and lasting sympathy and condolence,
 and express our appreciation of his high and spotless char-
 acter and those noble qualities which made him a useful
 and honorable member of the House of Representatives.

Be it further resolved, That as a further evidence of
 our respect to his memory this resolution be adopted by the
 House and spread upon the Journal, and that a copy of the
 same be engrossed and transmitted to the family of the
 deceased.

Be it further resolved, That out of respect to the mem-
 ory of the Honorable this House do
 now adjourn.

NOTE. — The foregoing forms are intended merely as guides in the preparation of resolutions. They are drawn as House resolutions, but with a few slight changes they are the same as used in the Senate.

Use of Resolution

Sec. 183a. In our National Congress bills and joint resolutions have the same status and are treated exactly alike, in other words, both are used for enacting laws. The joint resolution of the Ohio Assembly is known in Congress as a concurrent resolution, and is treated the same as we treat joint resolutions. In recent years Congress has endeavored to restrict the use of joint resolutions in law-making to matters of minor importance or merely temporary laws.

CHATER VI

METHOD OF PASSING BILLS — OHIO

Method of Passing Bills — Similarity of Practice in Both Houses

Sec. 184. Before presenting the matter of passing bills in the legislature, it may be presumed that the practice of the Senate and House of Representatives is so similar in regard to the stages of a bill and the proceedings connected with them, that except where variations are distinctly pointed out a statement of the proceedings of one branch is equally descriptive of the proceeding of the other.

Where Bills Originate

Sec. 185. Bills may originate in either House, except, that by general consent the House of Representatives has assumed the right to prepare and first act upon all bills appropriating money, but this unwritten rule of the House preparing appropriation bills is not rigidly enforced except as to general or budget appropriations, which are always prepared by the Appropriations and Finance committee of the House and introduced first in the House and after the House acts on said bills they are introduced in the Senate by message from the House, where they are acted upon in the same manner as in the House.

Passing of Bills — Meaning Of

Sec. 186. A bill is simply a single or series of propositions embodied in a particular form, as provided by rules elsewhere described in this manual. This series of propositions before acted upon by the legislative bodies is denominated a bill, and **the agreeing to the terms**

in which these propositions are expressed is what is called the passing of a bill, and when agreed to by the three branches of the legislative department, they become laws, acts or statutes.

Present and Past Practice of Introducing Bills

Sec. 187. Under the present practice any member of either House may introduce bills without notice or leave, in the House to which he belongs. In the early practice of the Ohio Assemblies, each House had a rule which provided that bills could be introduced, only on leave and after one day's notice to the House, in which it was to be presented, but that any committee, without notice could introduce bills. This rule was contained in the rule books until about thirty years ago, when it was dropped for the present system of introducing bills without leave or notice. As a relic of this old rule the unparliamentary practice of permitting committees to introduce bills has come down to the present time, and is now a well established practice in the House, but frowned upon in the Senate, and it is not permissible under the Cushing rules in that body. Mr. Roberts being silent on the subject, the House still clings to its old practice.

Sec. 188. Under the old rule the member would serve notice on the House of his intention and ask leave to bring in a bill (or resolution) at which time he would explain the object of his bill and give reasons for its introduction. If the House by vote decided their willingness to consider the subject presented in the bill, leave was given to bring it in, or to use the more modern term, to introduce the bill.

Sec. 189. If the House refused to consider the subject, leave to bring it in was denied, and thus, the House was at once relieved from consuming valuable time in the consideration of unimportant matters. In this manner hundreds of bills were killed in their incipency and hundreds of dollars saved the state in printing alone.

Steps or Stages in the Progress of a Bill Before it Becomes a Law

Sec. 190. **First: Preparation and introduction.**

Second: First reading. (which occurs immediately upon its introduction and reception, but could by vote of the House be deferred to another day.)

Third: Second reading. (usually the following day.)

Fourth: Commitment. (immediately after second reading.)

Fifth: Report of committees. (in regular order of business and on call of committee.)

Sixth: Engrossment. (usually follows committee report.)

Seventh: Third reading. (in regular order provided by rule.)

Eighth: Passage. (Immediately follows third reading and debate.)

Ninth: Transmission and introduction in the other House by message, where it is read twice and committed, and if amended, then reengrossed. When passed by the receiving House the next step is:

Tenth: Its return to the originating House by message.

Eleventh: Concurrence in amendments if any by the originating house.

Twelfth. Enrollment. (by originating House.)

Thirteenth: Report of enrollment committee and signing by the Speaker, in the presence of the House, a quorum being present, in the language of the Constitution the Speaker signs when the House is capable of doing business. **It is not capable of doing business unless a quorum is present.**

Fourteenth: Return to the Senate and signing by President of that body, who affixes the date of signing.

Fifteenth: Transmission by Senate to Governor.

Sixteenth: Approved or disapproved by the Governor.

Seventeenth: If approved, transmission by Governor to the Secretary of State.

Sec. 191. Eighteenth: Disapproval of Governor.

If disapproved, return of to the House in which it originated for reconsideration. If the Governor approves a bill it becomes a law ninety days after filing it with the Secretary of State. If he disapproves or vetoes it, it does not become a law unless repassed by the assembly and filed with the Secretary of State. This latter action is what is commonly known as "passing a bill over the Governor's veto."

Passing Bills Over Veto of Governor

Sec. 192. To those unacquainted with our constitutional law this action of the assembly might seem to be a discourtesy to the chief executive. It is not, and should not be so considered. The veto of the Governor and the final act of the assembly merely represents a difference of opinion, on the one side, of one man, on the other of one hundred fifty—the makers of our constitution have wrought wisely in their efforts to safeguard the people against unwise legislation. Neither branch of our assembly can of itself make a law, there must be an agreement between the majority of the two Houses. In other words, the Senate holds a negative or veto power over the action of the House, and the House holds a negative or veto power over the action of the Senate. Then when both Houses of the Assembly have agreed, the Governor is vested with a negative or veto power, but this action of the Governor is not final. The two Houses of the Assembly by a three-fifth vote may veto or negative the action of the Governor. Then by referendum the people may negative or veto the action of both Governor and Assembly. If the Governor does not scruple to veto an act of the assembly, there is no reason why the assembly should hesitate to veto the act of the Governor. In refusing to exercise the power of veto of the action of the Governor, they admit that their former action was unwise and admit the judgment of the Executive to be correct.

Bill — Definition of

Sec. 193. A bill is a proposition, or a series of propositions, expressed in a particular form of words, which when agreed to by the different branches of the legislative power becomes a law or statute of the state. The effecting of this agreement is what is meant by the passing of a bill, and the forms in which the proceedings with a view to this end constitute the system or method of passing bills in all legislative assemblies; the great purpose of all these forms and the several stages in the progress of a bill, is to enable the assembly to ascertain what its will is, in reference to a given topic of legislation, with freedom, intelligence and deliberation; and, when ascertained to express it readily, and in the form of words best adapted to its purpose. (Cushing.)

Reading of Bills

Sec. 194. The constitution of Ohio provides that **"Every bill shall be fully and distinctly read on three different days."** These words in the constitution are merely a restatement of one of the oldest parliamentary laws. It was originated in the early days when the accomplishments of reading and writing were not so general as they now are, and when the art of printing was either unknown or very little practiced. To supply this deficiency it was directed that every bill should be read in full by the clerk on three different days in the hearing of the members.

At the present day and in the practice of the Ohio assembly these three readings are perfunctory. The clerk confines himself to reading the title and the first lines, closing with the repealing clause, if one. (It is, however, the right of any member to demand the reading in full of the engrossed bill, but this is seldom done because the members have the printed bills on their desk and it is unnecessary and would cause the bill to be laid aside until the engrossment could be made.

The first reading of a bill is merely for information. The second reading is for the purpose of commitment. Under the old parliamentary law it was for debate and amendments, as a bill could not be amended after engrossment and the third reading. (In our practice we have changed the old rule. **The third reading in our practice is for debate and amendment.** This change has not contributed in the least to the efficiency of our procedure. The perfunctory manner of reading bills in the Ohio assembly is the practice now of the English Parliament and our National congress, except in Second Reading when bills are read in full by sections for amendment.

STEPS IN PROGRESS OF BILL EXPLAINED

Introduction and Reception of Bills

Sec. 195. When a bill has been carefully prepared in the proper form, that is—in accordance with the rules of the assembly and the laws and constitution of the state, it is then ready for introduction and the consideration of the House. Bills are regularly introduced under the order of business, **“Introduction of bills.”**

When this order of business is reached the Speaker orders the introduction of bills without motion or question put, and directs the clerk to call the roll of counties in alphabetical order. As the names of the counties are called, the member from that county desiring to introduce a bill should arise from his seat and address the chair as follows: “Mr. Speaker or President, (as the case may be,) a bill sir.”

Recognition of Member By Chair

Sec. 196. If the chair recognizes the member he does so by saying “The gentleman from —— county introduces the following bill.” If however, there be more than one member from the county the chair should announce the gentleman from Cuyahoga county, Mr. Smith, introduces the following bill.

This announcement by the chair establishes the

right of the member to introduce a bill, but it does not license him to introduce a resolution, petition, committee report or any other paper under this order of business, and should he take advantage of the chair and do so, he may relieve his own mind, but in so doing, he will cause confusion at the desk of the clerk and delay the business of the House which always occurs when the regular order of business is interrupted. A point of order would be good against a member so doing. When recognized the member holds the bill until a page comes to carry it to the desk of the clerk, where it is numbered and given its first reading which is usually as explained elsewhere in this manual (see reading of bills).

Number of Bill Never Changed

Sec. 197. **The number given to a bill by the clerk on first reading, is never changed.** The bill itself may be changed entirely, even to the name of the author, but the original number remains to the end.

Introduction of Bills Out of Order

Sec. 198. Bills may be introduced out of order in two ways by consent of the House: First, by request for unanimous consent; if one objection is made the request is defeated. If there be no objection the chair will notify member to send his bill to the clerk. **Form for requesting unanimous consent:** "Mr. Speaker or President, as the case may be) I ask unanimous consent to introduce a bill out of order." If objection is made the chair announces "There is objection, the bill cannot be received." Second: To move a suspension of rules, this requires a two-thirds affirmative vote.

When the clerk has finished the reading of the bill the chair then announces: **"First reading of bill," it is ordered placed on the calendar and read the second time tomorrow.** It is then printed. It is an invariable rule of parliament that no bill can advance from one stage to another without a motion and vote of the House.

How Bills Are Advanced

Sec. 199. In our practice bills are regularly advanced from one stage to another by order of the chair, under the rules, and when no objection is made to the order of the chair **it is presumed that the order of the chair to advance the bill, carries with it the unanimous consent of the House.** If, however, when the chair orders a bill to another stage in its progress, any one member should object, it would be incumbent on the chair to put the question, **"Shall the bill advance to its next stage?" Second reading or whatever stage it might be.** If decided in the affirmative the bill would be advanced and read regularly a second time the day following. If negatived it would remain upon the Speaker's table until another motion was made to advance it and if no such motion were made the bill would die there.

Objection to Bill on First Reading

Sec. 200. It sometimes occurs that a bill is found to be objectionable upon first reading. When this occurs the member who notes the objectionable matter should rise and address the chair saying: "I object to this bill." It is not necessary for him to even state the ground for his objection, unless he desire to strengthen his position with the House, or it is demanded by a member of the House.

Rejecting Bill

Sec. 201. When objection is made by any member it is the duty of the chair to at once put the question, **"Shall the bill be rejected?"** If decided in the affirmative the bill is dead, and cannot be advanced to another stage but the House may give leave to the member to bring in another bill eliminating the objectionable features of the bill rejected. If decided in the negative the bill proceeds as if the objection had never been raised.

When a bill is read the first time it is considered to be in possession of the House and no change or alter-

ation of any kind whatsoever can be made in it except by order of the House. Immediately following the first reading the clerk sends all bills to the printer for printing, unless otherwise ordered by the House.

During the interim between first and second reading of bills they remain on the Speaker's table to be called up when read a second time.

Calendar on Desk

Sec. 202. When the member comes to his desk the morning after the introduction and first reading of his bills, he will find on his desk the calendar showing the business of the day. Under the head of bills for second reading he will find the title and number of all bills introduced on the previous day.

Second Reading of Bills and Commitment

Sec. 203. While it is true that the parliamentary rule relative to the reading of bills has been incorporated in the constitution, to-wit: **"That all bills shall be fully and distinctly read on three separate days,"** it is unusual and rarely ever occurs that they are so treated. It is customary when this order of business is reached for a member to move as follows, addressing the chair: **"I move that the constitutional rule requiring bills to be fully read on three different days be suspended and all bills on the calendar for second reading be read by their titles only."**

Sec. 204. This motion must be agreed to by three-fourths of those present or the rule is not suspended. If this motion is not made promptly the chair may order thus: **"Without objection from the House the constitutional rules will be considered suspended and bills for second reading will be read by title only."** If no objection is made the rules are considered suspended by unanimous consent, and the chair directs the clerk to read the bills by title only.

Sec. 205. **If there be one objection unanimous consent is defeated** and the bills must then be read **extenso**, and the chair should order the bills so read. If, however, the rules are suspended, he orders the clerk to read the bills by title only in the order they appear on the calendar. After the reading of each title the chair should announce **"Second reading of the bill."** Such declaration by the chair being as necessary in parliamentary law as the reading by the clerk.

The chair then announces, **"The bill is ready for commitment or engrossment."** It being the custom of the House to refer all bills, the chair usually inquires, **"To what committee?"** Then the member who introduced the bill names the committee he desires to consider the bill. Any member may name a committee, the House may on motion and by majority vote, pass over commitment, and order the bill engrossed and placed on the calendar for third reading.

Sec. 206. When a bill is read the second time it is before the body for consideration and may be delayed or defeated at this time, by motions to indefinitely postpone, lay on the table, or to postpone to a day beyond the life of the session, as **"this day six months"** or by placing a negative on the motion to engross should that question arise.

When Two Committees Are Named

Sec. 207. When two or more committees are named, the chair should put the question to the House on the committees in the order in which they are named, and the bill goes to the committee determined upon by the House. It sometimes occurs, where members do not promptly name a committee, the chair orders the commitment; this, however, is usurpation of authority not lodged in the chair, but unless objection is made, this act stands as the act of the House. Under the rules **the House only has authority to commit.**

Sec. 208. The member introducing a bill may not demand as his right that a bill be sent to the committee of his choosing. But as heretofore stated, as a parliamentary courtesy it has been the custom of both Houses to agree on the committee named by the author or sponsor of the bill.

Action When Committee Is Not Named

Sec. 209. When no committee is suggested by the House, it is fair for the chair to assume that the House does not desire commitment, and he should put the question on engrossment. If this question is negatived the bill is defeated and remains on the clerk's table.

If the question on engrossment is agreed to, a motion should follow, fixing the time for third reading and consideration, or the chair may under the rules order third reading tomorrow.

When Bills Are Reported by Committees

Sec. 210. When a committee having bills under consideration makes a report on them, it is not the custom in the assembly for a motion to be made to agree to a committee report. Such motion is presumed to be pending. The chair inquires, "Is the report agreed to?" If no objection is made to the report, the chair assumes that it is unanimously agreed to and announces "the report is agreed to." Receiving committee reports in our practice is a perfunctory proceeding.

The chair should further proceed and advance the bill to its next stage, engrossment and third reading, as follows: **"Without objection the bill is ordered engrossed and read the third time tomorrow."** If one objection is made the order of the chair would be defeated, and the bill could not advance further unless the House by vote would so order.

When Question on Engrossment is Put

Sec. 211. When objection is made the chair should put the question on engrossment or a motion by a member

to engross and read a third time would bring the House to a determination of the advancement of the bill.

Defeat of Motion to Engross

Sec. 212. If the simple motion to engross is made and defeated the bill is defeated. But should the motion be to engross and read a third time on a specific day be lost, it would not preclude another motion to engross and read a third time on another day. If the motion to engross and read a third time prevails the bill automatically goes on the calendar in its regular order to be taken up for consideration when reached in the regular order of business.

Importance of Engrossment

Sec. 213. As stated in the foregoing when the committees report bills the next step in their advancement, is engrossment. **By many this is thought to be the most important stage of the bill**, and there are good substantial reasons for this thought. Elsewhere we have written if the question of engrossment is lost the bill is defeated, because it is so written in the rules of the House, as well as a good parliamentary rule.

Sec. 214. The rules further provide that no bill can be read a third time unless it be engrossed, if it is not read a third time, it cannot be passed. Yes, it could be done under suspension of rules. But the House that refuses to engross would certainly refuse to suspend the rules, because there could be but one reason to refuse engrossment and that to defeat the bill.

Engrossment Defined

Sec. 215. The engrossment of a bill is the preparation of the bill in its official form. This is accomplished by taking the printed bill and pasting it on heavy legal cap paper. It is then folded in convenient form, and the title, number and name of the author is placed upon the back thereof. If during the progress of the bill to this

stage it has been amended or changed in any particular, such amendments are inserted in their proper place in the bill as ordered by the House and recorded in the journal. This nearly always necessitates a rearrangement of the lines in the bill and they are renumbered by the engrossing clerk.

Reengrossment

Sec. 216. If a bill is amended after engrossment it should be ordered reengrossed, or such amendments will not appear in the bill. The clerk is without authority to engross a bill without order from the House. The question of engrossment is not put in the English Parliament now. It was discarded many years ago.

Sec. 217. After a bill is engrossed it becomes the official bill for the further consideration of the House and every action taken thereafter is predicated on the engrossed bill and the printed bill has no further standing in the House. For this reason members desiring to amend a bill after third reading should make sure that the amendment fits in the engrossed bill and not the printed bill, otherwise errors may occur for which the member will be responsible and not the clerk.

It would be well to remember that the line numbers in the printed bill do not correspond to the line numbers in the engrossed bill if it has been considerably amended.

Importance of Engrossment in Ancient Times

Sec. 218. The engrossment of bills in ancient times was considered of so great importance that after a bill was once engrossed no member was even permitted to look into it, and very rarely were amendments permitted to it, and when they were accepted, it was required that they be written out fully and engrossed on a separate paper known as a rider and were attached to the bill, but never inserted in it. In modern practice, with the exception of a few states, an engrossed bill may be amended in any particular and this irregularity and laxity in procedure is responsible

for ninety-nine per cent of all errors found in enrolled bills or finished laws.

When Question of Engrossment Does Not Arise

Sec. 219. The question of engrossment does not arise upon a bill introduced into either House by way of message from the other House, except such bills as are amended by the receiving House, in which case, they should be ordered reengrossed. Bills received by either House by message are already engrossed in their official form, and it would seem senseless for the receiving House to order the doing of that which had been done. (See any accepted writer on parliamentary law.)

Third Reading

Sec. 220. After a bill is reported from committee and engrossed it is placed on the calendar for third reading the second day following, unless otherwise ordered by a vote of the House. Motions to advance bills from one stage to another are not necessary under our rules and procedure, unless objection is made to their advancement when ordered by the chair.

Sec. 221. The rules of both the House and Senate provide for the advancement of bills. All bills ordered to third reading, go on the calendar under that order of business and when reached on any day the chair announces "Bills for third reading" and the bills are taken up and read and disposed of in the order in which they appear on the calendar.

Third Reading

Sec. 222. If taken up out of regular order it requires a suspension of the rules, which requires a two-thirds vote of those present. At this time the clerk is supposed to read the bills in full, but this rarely ever occurs. The purpose of reading bills three times being merely to acquaint the members with the contents of the bills. It would seem that under the modern practice of printing and dis-

tributing of all bills for the use of the members, a partial reading as now practiced is sufficient and the requirements of the constitution are fully met in the printing of bills.

Sec. 223. The bill read by the clerk at this time is usually the engrossed bill containing all amendments made to the bill previous to this reading. When the clerk finishes the reading, the chair announces **"Third reading of the bill."** If no objection follows the announcement or amendments are not offered, the chair puts the question without motion, **"Shall the bill pass?"** Under the rules and procedure of both Houses it is the practice to **debate and amend bills after third reading.**

Practice of Senate in Amending Bills

Sec. 224. Amending bills after third reading in the Senate under its rules is as follows: If a member desires to amend, the form of his motion is "I move the bill be referred to a select committee of one, with instructions to amend as follows:" (then follows the amendment whether it be one word, a paragraph or several pages, or merely the inserting or striking out of a comma.)

Sec. 225. The amendment must show the line or lines in the bill where the change is to be made. If the motion is agreed to, the member making the motion is supposed to be appointed the select committee of one, and it is announced immediately that he has amended the bill as directed. In the working out of the amending process the member has no part whatever, except the making of the motion.

Sec. 226. In actual practice the bill is never delivered to the member appointed the select committee of one to amend. The foregoing, is the rule of the Senate, but toward the close of the last session they adopted the House plan, without changing the rule. The amendments are always inserted in the bill by the clerk.

Amendment to Amendment

Sec. 227. If it be desired to amend the amendment the motion should be under the rule "I move to amend the instructions to amend as follows:" (Here should follow the proposed amendment.) (The foregoing practice was dropped by the Senate and the House plan adopted in the closing weeks of the last session.)

Sec. 228. The foregoing is a fair description of the antiquated method provided by the Senate rule in amending bills and was also the practice of the House until the 83rd General Assembly when the House changed the rule and dropped the old procedure.

Striking Out Enacting Clause

Sec. 229. A motion to amend by striking out the enacting clause would defeat the bill if carried. A simple motion to **strike out the enacting clause** would be out of order, for the reason this motion is not provided for in our rules. **But a motion to amend by striking out would be in order.**

How to Delay or Defeat a Bill

Sec. 230. When a bill is under consideration, several motions are in order that would defeat the bill, or at least delay its progress, namely: **To lie on the table; indefinitely postpone or to postpone further consideration to a day beyond the life of the session,** this latter motion, if carried, would prevent a vote on final passage.

Amendments to Bills in the House — New Method

Sec. 231. Amendments to bills in the House are now made in the ordinary and modern way by reducing to writing the amendment and moving to amend the bill. If it is desired to amend the amendment the member moves to amend the amendment.

Laying Amendment on Table

Sec. 232. There is nothing whatever to be gained by a motion to lay on the table an amendment, because, if decided in the affirmative it carries the bill and all other papers to the table with it. This is also true of a motion to commit an amendment, if carried, the bill is also committed. It would be the same with a motion to postpone. If it is desired to table the bill the motion should be to lay the bill on the table and not the amendment. However, in any event the result is just the same, both bill and amendment are removed from the consideration of the House.

Passage

Sec. 233. After the third reading of a bill and the debate is ended and the members appear to be satisfied with its form and substance, the chair announces the question, **"Shall the bill pass?"** The motion for passage is presumed to be pending. If no member rises in debate or offers amendment the chair directs the clerk to call the roll of the members. As their names are called members announce their judgment on the bill by answering yea or nay, and as they answer they are recorded by the clerk.

Transmitted to Senate

Sec. 234. After a bill has passed the originating House the next step in its progress is its transmission to the other House by message for introduction in that body. Before this is done however, if the bill has been amended, it must be reengrossed and then the clerk endorses his certificate of its passage on the back of the bill. The following is the form in constant usage in both Houses. If passed in House:

FORM:

In House of Representatives

Passed _____ (date)

Attest: _____ Clerk.

Sec. 235. The message clerk then prepares a message similar to the following: Mr. President: I am directed to inform the Senate that the House of Representatives has passed the following bill: (Here follows title, number and author.) in which the concurrence of the Senate is requested.

Attest: _____ Clerk.

Sec. 236. The message and bill are then enclosed in an envelope and forwarded to the clerk of the other body who receipts for same and delivers it to the chair, who at a convenient time, or at his own pleasure, when no other business is pending, delivers the message to the clerk, who reads it to the receiving House. The reading of the message constitutes its introduction in that House and the bill is read the first time and then moves through that body in the regular way, its progress being practically the same as in the body from which it came, **except the question of engrossment does not arise unless the bill is amended.**

Return of Bill from Senate

Sec. 237. When a bill is passed by either House and is rejected in the other, it is immediately returned to the originating House with a message to that effect. If the bill was passed without amendment the message would be similar to the following:

Mr. Speaker: I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following: (Here follows title, number of bill and author.)

Attest: _____ Clerk.

Sec. 238. If the bill has been amended, it is reengrossed by the amending body and the reengrossed bill and original are returned to the originating House with a message similar to the following:

Mr. Speaker: I am directed to inform the House of Representatives that the Senate has concurred in the

passage of the following bill: (Here follows title, number of bill and author) with the following amendments:

(1) (Here follows the amendments in full) in which the concurrence of the House is requested:

Sec. 239. When this message is received the receiving clerk receipts for it, and delivers it to the chair, who later hands it to the clerk to be read. When read the Speaker announces the amendments go over under the rules, meaning the amendments will come up for consideration the next day, or at some future time.

Attest: _____ Clerk.

NOTE: It would be a great convenience if both clerks would insist that their message clerks in sending amendments number all amendments consecutively as they do in the National Congress.

Amending Senate Amendments

Sec. 240. Of course the rules could be suspended and the amendments considered at once, but when they lay on the Speaker's table one day, the amendments are printed in the journal the following day and members have opportunity to examine them before voting on them. When these amendments are called up later for concurrence, they are subject to amendment. In other words if unsatisfactory the House may proceed by amendment to make them satisfactory.

Vote Necessary For Concurrence.

Sec. 241. If amendments to the amendments were adopted it would be necessary to return the bill and amendments to the amending House for concurrence. If it be desired to concur in amendments of the other House such concurrence requires the same vote as was necessary to pass the bill originally and must be by yeas and nays vote. Any vote which finally passes a bill must be by yeas and nays as provided in the constitution.

Sec. 242. If the House should refuse to concur in

Senate amendments, the clerk immediately sends a message to the Senate as follows:

Mr. President: I am directed to notify the Senate that the House of Representatives refuses to concur in Senate amendments to House Bill No. —, Title, Author.

Attest: _____, Clerk.

Sec. 243. At this stage there are several proper courses for the Senate to pursue, which is fully explained under the head **Amendments Between the Houses**, but here it will be sufficient to say that the usual course is for the Senate to insist on its amendments and notify the House of its insistence and ask for a committee of conference.

Sec. 244. Elsewhere the subject of conference committees is fully treated, and the best known authorities on the subject are cited. Before passing from this subject we should observe that if the House should refuse a conference and insist on its disagreement. The Senate could then adhere, or recede. In the latter case the bill would be passed. In the former the House would likely adhere which would defeat the bill.

Enrollment

Sec. 245. After a bill has finally passed both branches of the assembly the next stage of its progress is enrollment, and it is supposed to be sent directly to the enrollment committee, but in fact goes to the enrolling clerk of the House in which it originated.

Enrollment — How Accomplished

Sec. 246. The enrollment of a bill is accomplished by the enrolling clerk producing an exact copy of the engrossed bill except the words "A Bill" in the engrossed copy are changed to "An Act" in the enrolled copy. This duplicate copy is then sent to the printer who prints the enrolled bill according to the provisions of section 66 of the General Code.

Sec. 247. After the enrolled bill is returned from the printer it is delivered to the enrollment committee whose duty it is to carefully compare the enrolled bill with the engrossed copy and note any and all errors which they may find and report same to the House. If no errors are found they report that fact to the House. A report of the committee on enrollment is privileged and can be made at any time when no other business is pending.

Powers of Enrollment Committee

Sec. 247a. Mistakes in the enrollment of bills (says Mr. Cushing, p. 918) are to be corrected by the committee before they report an enrolled bill; but, in looking over bills for this purpose, they sometimes discern important mistakes which have hitherto escaped detection, and which, upon being pointed out, are corrected by general consent. (That is, Mr. Cushing means, the committee should report the finding of the errors to the House where they are corrected by unanimous consent.) "When this takes place the bill is again* examined by the committee, reënrolled and reported, and, if it has already been signed, is signed again by the presiding officers of the two Houses." The foregoing is also the practice of Congress. See H. J. 30th Cong. 1st Sess. 979-980, 991 J. of S., same sess., 453.

Enrollment

Sec. 248. An enrolled bill may be prepared by hand or by typewriting, but the latter enrollment must be ordered by joint resolution.

Enrollment Report is Privileged

Sec. 249. The report of the enrollment committee is privileged and can be made at any time when no other business is pending before the House.

Certificate of Passage

Sec. 250. When the enrollment committee reports a bill correctly enrolled, the Speaker of the House, in the

presence of the House, affixes his signature thereto, thus certifying that the bill has passed the House. The clerk then transmits the engrossed and enrolled bill with a message to the Senate, notifying that body that the Speaker of the House has signed the bill.

Signing of Bill by President

Sec. 250a. The President of the Senate then certifies to the passage of the bill by the Senate **by affixing his signature, also date of such signing.** The bill is then transmitted to the Governor for his approval or disapproval.

Approved or Disapproved by Governor.

Sec. 251. All acts passed by the General Assembly must be transmitted to the Governor for his approval or disapproval. Acts of the Assembly approved by the Governor under the new constitution become operative ninety days after the act has been filed by the Governor with the Secretary of State, except the following, which become operative immediately after being approved by the Governor: acts of the Assembly providing tax levies; appropriations for the current expenses of the state government and state institutions; emergency acts necessary for the immediate preservation of the public peace, health or safety.

Proceedings on Vetoed Bill

Sec. 252. It has been the practice of both the House and Senate to proceed without delay to the consideration of a veto message from the Governor. It is not, however, the invariable practice. Frequently such bills remain on the calendar for weeks at a time before being taken up for consideration. When the message of the Governor is read, a motion to proceed to consider is not necessary, as a matter of fact, the motion, "Shall the bill pass notwithstanding the objections of the Governor?" is considered as pending. The bill and message together or separately are subject to postponement, commitment, or may be laid on the table. A vetoed bill received by way of either House is con-

sidered as if received directly from the Governor and supercedes the regular order of business.

The considering of a vetoed bill may be indefinitely postponed, according to the practice of Congress. Vetoed bills laid on the table are still highly privileged and justifies a motion to take from table by majority vote. If a vetoed bill or message is referred to a committee the motion to discharge a committee from the consideration of the bill or message presents a question of constitutional privilege and is in order at any time. If a vetoed bill is passed by one House it immediately without delay informs the other House by message of its action.

Sec. 253. If one House should refuse to repass the bill this action also should be communicated to the other House. The clerk of the last House acting on a vetoed bill should it be passed over the objections of the Governor, should at once file properly certified such bill with the secretary of state.

The following is the usual form of the message sent with the bill to the other House when same has been passed over the objections of the Governor:

Form of Message

Sec. 254. "Mr. President: The Governor of Ohio having returned to the House of Representatives H. B. No. entitled an act (here follows the title of the bill) with his objections to the same, the House proceeded to reconsider the bill, which was passed, three-fifths of the House agreeing thereto." I am directed by the House to communicate said bill, the message of the Governor returning same with his objections, and the proceedings of the House thereon to the Senate.

"Attest: Clerk."

Third Reading of Emergency Laws

Sec. 255. Upon the third reading of a bill which is an emergency measure within the meaning of the constitution, the presiding officer should direct that the section of said

bill setting forth the facts constituting the necessity for such emergency (known as the emergency section) be first read and put to a vote. The question should be thus stated: "Shall this section (naming section) setting forth the emergency features of this bill stand as part of the bill?" If upon the final vote upon such section two-thirds of all the members elected to the House in which it is pending, shall not vote in the affirmative, then such section, as if by amendment, is removed from the bill. The vote should then be taken upon the bill, which without the emergency section would require but a majority vote to pass. If the emergency section is adopted, it then requires a two-thirds vote to pass the bill.

Amending the Title of Emergency Bill

Sec. 256. When the emergency clause of a bill has been rejected, it is necessary to amend the title by striking out the emergency feature of same.

Common Bills Converted into Emergency Bills

Sec. 257. Any bill that has been introduced into the General Assembly may be converted into an emergency bill either by committee, or upon the floor of the House by amendment, inserting an emergency clause.

Reasons for Reverse Action Upon Emergency Bills

Sec. 258. Any student of parliamentary law will understand **that after a bill has been read the third time, voted upon and passed, it is not subject to further amendment except by reconsideration.** The passing of the emergency clause is in effect an amendment to the bill and therefore should be adopted before the consideration of the entire bill takes place. In other words, in parliamentary law, final action is never taken upon any proposition until by amendment or otherwise such proposition is perfected and placed in suitable form for passage by the members of the body, and this is the unalterable rule of Parliament and Congress.

Sec. 258a. Note: The question as to the proper procedure on emergency bills is in no sense a legal question but is entirely a parliamentary question and the course to be followed by the assembly should be determined in the light of parliamentary law and procedure. It is certain a fixed and definite rule should be written by the assembly covering procedure on emergency bills and not leave it to the caprice of the presiding officers to be changed at their convenience.

Sec. 258b. The only analogous practice in parliament we have found to that of our emergency laws is set forth in the following:

The English House of Commons has the following rule:

THE PRECISE DURATION OF EVERY TEMPORARY LAW MUST BE EXPRESSED IN A DISTINCT CLAUSE AT THE END OF THE BILL. The rules, however, do not provide any peculiar or separate manner of handling this section as does our constitution. In the regular practice, however, bills on second reading are considered section by section and each section is passed upon separately, that is, the question is put on each section by the Speaker as follows: "SHALL THIS SECTION STAND AS PART OF THE BILL?", stating it in a parliamentary way. The bill is FULLY PERFECTED BEFORE THE FINAL VOTE IS TAKEN.

If the foregoing procedure was the practice of the Ohio Assembly, the contention as to the proper way to proceed with emergency bills, would never have arisen, for the reason under this practice the emergency section would receive proper and regular attention and do away with the necessity of reconsidering bills to remove defeated emergency sections, which frequently occurs in the practice of the House occasioned by the unparliamentary procedure of taking vote on bill before it is perfected.

Mr. Jefferson says: "No change or alteration is permissible in a bill after passage, except by reconsideration."

When a bill is passed and afterward declared to be an emergency by adopting emergency section, a very important and substantial change or alteration is made in the bill. Therefore, according to the rule of Jefferson, the emergency section should be disposed of before taking vote on bill. The practice on emergency bills as set forth in this manual is the practice of the California Assembly and was taken from its joint rule. The constitutional provision of that state is practically the same as the Ohio provision. In following the rule herein laid down many parliamentary entanglements and embarrassments will be avoided.

Points to be Observed in Emergency Bill

The following is part of an opinion rendered by Attorney General Turner:

Sec. 259. Before an emergency law may be passed the following conditions must exist and steps be observed:

- (a) An emergency in fact must exist.
- (b) The passage of such law must be necessary for the immediate preservation of the public peace, health or safety.
- (c) The emergency law (not one section of it, but all of it) must receive the affirmative votes of two-thirds of all the members elected to each branch of the general assembly. Such vote must be a yea and nay vote.
- (d) The law must contain one section in which are set forth valid reasons showing the necessity for the immediate preservation of either, any two of, or all, the public peace, health or safety.
- (e) The section above referred to must be voted on, by a yea and nay vote, on a separate roll call and must also receive the vote of two-thirds of all the members elected to each branch of the general assembly (this section being one section of the law).

The essence of the bill must be to provide for an emergency and the reasons showing the necessity for the immediate preservation of the public peace, health or safety must be set forth in one section.

CHAPTER VII

MOTIONS AND AMENDMENTS AND AMENDMENTS BETWEEN HOUSES

Motions and Amendments

Similarity of Rules

Sec. 260. The rules of the House and Senate on amendments are almost identical with those of the National Congress. An amendment whether simple or in the nature of a substitute may be withdrawn at any time by consent of House before amendment or decision is had thereon. **Amendments to the title of a bill are not in order until after the passage of the bill.**

Perfecting Bill Before Engrossment

Sec. 261. In the practice of the Ohio Assembly bills are not amended except in committee until after engrossment, i. e., in our practice **bills are perfected by amendment after third reading**, no amendments being received on first and second reading. Our practice is contrary to all parliamentary law, which provides bills shall be perfected before engrossment.

Sectional Numbers Corrected by Clerk

Sec. 262. Amendments as to numbering sections in a bill or resolution, that the numbering may be consecutive, are regarded as purely clerical and should be left to the clerk, or the committee reporting the measure. In Sec. XXXV of Jefferson's Manual may be found the following parliamentary observations:

Filling Blanks

Sec. 263. "The number prefixed to the section of a bill, being merely a marginal indication and no part of the

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text of the bill, the clerk regulates that; the House or committee is only to amend the text." "A bill passed by one House with blanks, may be filled up by the other by way of amendment, returned to the first as such and passed."

Substitute Amendments

Sec. 264. An amendment in the nature of a substitute, may be engrafted on a bill immediately following the enacting clause." Jefferson Sec. XXXV. "In filling a blank with a sum the largest sum shall be first put to the question. In all cases of time or number whether the larger comprehends the lesser should be considered."

On an amendment being moved a member who has spoken to the main question may speak again to the amendment.

Amendments by Striking Out and Inserting

Sec. 265. The following is the parliamentary law relative to striking out and inserting and is Mr. Jefferson's discussion of the subject: "When it is moved to amend by striking out certain words and inserting others in their place which is negatived; then it is moved to strike out the same words and to insert others of a tenor entirely different from those first proposed. It is negatived. Then it is moved to strike out the same words and insert nothing, which is agreed to. All this is admissible, because to strike out and insert "A" is one proposition; to strike out and insert "B" is an entirely different proposition and to strike out and insert nothing is still another proposition. The rejection of one proposition does not preclude the offering of a different one. Nor would it change the case were the first motion divided by putting the question on striking out and that be negatived. But if it had been carried affirmatively to strike out the words and to insert "A" it could not afterwards be permitted to strike out "A" and insert "B". The mover of "B" should have notified, while the insertion of "A" was under debate that he would move to insert "B". In which case those who preferred it would join in rejecting "A".

After "A" is inserted, however, it may be moved to strike out a portion of the original paragraph, comprehending "A", provided the coherence to be struck out be so substantial as to make this effectively a different proposition. For then it is resolved into the common case of striking out a paragraph after amending it.

Third Degree Amendments

Nor does anything forbid a new insertion, instead of "A" and its coherence. When a motion or the proposition is under consideration a motion to amend the amendment is in order and these motions may be pending at the same time. **And amendment in the third degree is never in order, that is,** a motion to amend the amendment to the amendment. An amendment in the nature of a substitute may be proposed before amendments to the original bill have been acted upon, but may not be voted on until after such amendments have been disposed of. (Jefferson.)

Substitute Amendments

Sec. 266. A motion to strike out and insert (for example, in the case of substitute being carried) precludes a motion to strike out or otherwise amend the matter inserted. Hence, **after a substitute has been agreed to, no amendment to the substitute is in order. It is therefore important to perfect the substitute by desired amendments thereto before the question of agreeing to it is voted on.**

Sec. 267. A substitute amendment may be amended by striking out all after the first word and inserting a new text. The proper form for an amendment which is offered as a substitute for a bill is to strike out all after the enacting clause and insert in lieu thereof the following: The form for a substitute should be: "Strike out all after the first word in the substitute and insert in lieu thereof the following:"

Amendments

American Parliamentary Practice

"After a substitute has been agreed to, the vote must again be taken on the proposition as thus amended. Hinds, Vol. V, Chap. CXXV.

Sec. 268. **"The motions to postpone; amend; refer; for a recess; to fix the day to which to adjourn, may be amended."**

An amendment cannot attach to the simple motion to adjourn, or to the previous question or to lay on the table. A proposed amendment may not be accepted by the member in charge of a pending measure, but it can be agreed to only by the House.

When it is proposed to amend by inserting a paragraph it should be perfected by amendment before the question is put on inserting. When it is proposed to perfect a paragraph the motion to insert or strike out, if already pending must remain in abeyance until the amendments to perfect have been moved and voted on.

Sec. 269. If a motion to strike out a paragraph fails, amendments to it may still be offered. **Words once inserted in a paragraph by way of amendment, may not be stricken out by another motion to amend**, but words on the same subject may be added to a paragraph.

It is in order to perfect words proposed to be stricken out by striking out a portion of them.

Sec. 270. "On April 20, 1904, the House was considering the bill 7262, when Mr. Fitzgerald, of New York, proposed an amendment striking out certain lines in one section of the bill, these lines not comprising a separate paragraph by themselves, but standing consecutively. Then Mr. Vreeland, of New York, proposed an amendment striking out certain lines occurring consecutively and within the portion proposed to be stricken out by Mr. Fitzgerald. A question of order arising, the Speaker Pro Tempore said: "Mr. Fitzgerald proposes to amend by striking out certain words. The other gentleman offers an amendment to strike

out certain words which are within and much less than the part proposed to be stricken out by the first amendment. The motion of the second gentleman is in the nature of a perfection of the paragraph and is therefore a preferential amendment, to be voted upon before the first amendment is put. While amendments are pending to a paragraph or section, a motion to strike out is not in order." (Vol. V Chap. LXXV)

Sec. 271. The question of agreeing to committee reports with or without amendments is put by the chair, without motion from the floor. The motion to agree to committee reports is considered to be pending. (Under the rules of the Ohio Assembly amendments made by committees and agreed to are afterward subject to amendment in any particular.) When a bill is under consideration by paragraphs or sections, a motion to strike out can only be applied to the paragraph or section under consideration.

Sec. 272. It is in order, by motion to insert, to effect a transfer of a section from the latter to the first portion of a bill.

The National House abandoned the rule in 1886, prohibiting the amendment of one bill by offering the substance of another bill pending before the House.

Sec. 273. The inconsistency of a proposed amendment with one already agreed to is not a matter for the decision of the chair. Upon this latter statement, Mr. Jefferson has the following to say: "If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications and suppress, instead of subserving the legislative will." The admissibility of an amendment should be judged from the provisions of its text rather than from the purpose which circumstances may suggest."

If a portion of a proposed amendment be out of order, the whole amendment should be ruled out.

Germane Amendments

American Parliamentary Practice

Sec. 274. An amendment which changes a resolution of inquiry into one of instruction is not germane. An amendment simply striking out words already in a bill may not be held to be germane. The rule that amendments must be germane applies to amendments reported by committees.

Sec. 275. When a paragraph which changes existing law has by general consent been allowed to remain, it may be perfected by germane amendments; a bill amending existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill is not germane.

Sec. 276. Under the latest decisions of Congress the principle has been established that an amendment should be germane to the particular paragraph or section to which it is offered.

An amendment inserting an additional section should be germane to the portion of the bill where it is offered.

Sec. 277. An amendment inserting an additional section shall be germane to the portion of the bill where it is offered.

Sec. 278. Where a bill amends a general law in several particulars an amendment to repeal the whole law is germane.

Sec. 279. A bill for the relief of one individual an amendment providing similar relief for another individual is not germane.

Sec. 280. A provision for an additional judge in one territory, an amendment providing an additional judge in another territory is not germane.

Sec. 281. A bill providing for the extermination of the cotton boll weevil an amendment including the gypsy moth was held in the House not to be germane.

Sec. 282. If a bill were pending before the House providing for the payment of a private pension to one individual, it would not be germane to offer an amendment for another individual.

Sec. 283. A resolution providing a clerk for one committee, an amendment providing a clerk for a different committee would not be germane.

Sec. 284. To a bill authorizing the court of claims to adjudicate a claim, an amendment providing for the payment of the claim outright was held to be germane.

Sec. 285. A revenue amendment is not germane to an appropriation bill.

Sec. 286. The Senate and House rules of the Ohio Assembly being House rule 41 and Senate rule 80 are practically the same and are the same as the rule of the National House on the subject and have been handed down from the Continental Congress.

Sec. 287. In speaking of the purpose of this important rule, Speaker Olmstead said: "It is very desirable that this rule should be observed in its entirety. It is a great safeguard against hasty and ill-considered action. It prevents unexpected and diverse objects from being suddenly thrust forward for the instant consideration of the House without the benefit and assistance of previous consideration and report by the appropriate committee."

Carlisle Test

Sec. 288. Defining this rule, Speaker Carlisle said: **"After a bill has been reported to the House, no different subject can be introduced into it by amendment,** whether as a substitute or otherwise. When, therefore, it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is merely **that it (the proposed amendment) is a motion or proposition on a subject different from that under consideration. This is the test of admissibility prescribed by express language of the rule,** and if the chair, upon examination of the bill under consideration and the

proposed amendment shall be of the opinion that they do not relate to the same subject, he is bound to sustain the objection and exclude the amendment." This ruling was sustained by the House, and is now recognized in the House as the Carlisle test for germaneness.)

Sec. 289. A provision excluding immigrants unable to read and write and requiring a certificate with each immigrant admitted an amendment to exclude all foreign-born laborers was held not to be germane.

Sec. 290. An amendment prohibiting aliens from coming temporarily into the United States to work was held not to be germane to a bill regulating the immigration of aliens.

Sec. 291. To a bill to protect trade and commerce against trusts, an amendment relating to duties on articles handled by trusts was held not to be germane.

Sec. 292. A proposition to prohibit the employment of Chinese on American vessels was held not to be germane to a bill to prevent their coming into the United States.

Sec. 293. To a bill for the erection of a building for a mint, an amendment to change the coinage laws was held not to be germane.

Sec. 293a. To a bill granting a right-of-way to a railroad, an amendment providing for the purchase of the railroad by the government was held not to be germane.

Sec. 294. To a proposition to investigate the conduct of members in relation to a department of government, an amendment proposing an investigation of the department itself was held not to be germane.

Sec. 295. It is not in order to do indirectly by a motion to commit with instructions, what may not be done directly by way of amendment. (e. g. If a member should offer an amendment and it should be ruled out of order, it would not be in order for him to move to refer the bill to a committee with instructions to report the bill with the amendment contained therein that had been ruled out of order." (Hinds. Chap. CXXVI.)

Amendments Between the Houses

Sec. 296. The general parliamentary law on amendments between the Houses is discussed by Mr. Jefferson as follows, and this rule governs in the National Congress: "When either House, e. g., the House of Commons sends a bill to the other, the other may pass it with amendments, the regular progression in this case is, that the Commons disagree to the amendments, the lords insist on it. The Commons insist on their disagreement; the lords adhere to their amendment; the Commons adhere to their disagreement. The term of insisting may be repeated as often as desired. But the first adherence by either renders it necessary for the other to recede or adhere also when the matter is usually suffered to fall; latterly, however, there are instances of having gone to a second adherence. There must be an absolute conclusion of the subject somewhere or otherwise transactions between the Houses would become endless. The term of insisting, we are told, by Sir John Trevor, was then (1679) newly introduced into parliamentary usage by the lords. It was certainly a happy innovation, as it multiplies the opportunity of trying modifications which may bring the Houses to a concurrence. Either House, however, is free to pass over the term of insisting and to adhere in the first instance, but it is not respectful to the other House. In the adhering parliamentary course there are two free conferences, at least, before an adherence.

Sec. 297. **Either House may recede from its amendments and agree to the bill, or recede from their disagreement to the amendment, and agree to the same absolutely or with an amendment;** for here the disagreement and receding destroy one another and the subject stands as before the disagreement.

But the House cannot recede from or insist on its own amendment with an amendment, for the same reason it cannot send to the other House an amendment to its own act after it has passed the act. They may modify an

amendment from the other House by engrafting an amendment on it, because they have never assented to; but they cannot amend their own amendment because they have, on the question, passed it in that form, nor when one House has adhered to their amendment, and the other agrees with an amendment, can the first House depart from that from which they have fixed by an adherence. The motion to amend an amendment takes precedence of a motion to agree or disagree.

Sec. 298. A bill originating in one House is passed by the other with an amendment:

The originating House agrees to their amendment with an amendment. The other may agree to their amendment with an amendment, that being only in the second and not the third degree; for, as to the amending House, the first amendment with which they passed the bill is a part of its text. It is the only text they have agreed to. The amendment to that text by the originating House, therefore is only in the first degree, and the amendment to that again by the amending House is only in the second, to-wit: an amendment to an amendment, and so admissible. Just so, when on a bill from the originating House, the other at its second reading makes an amendment, on the third reading this amendment is become the text of the bill and if an amendment to it be moved an amendment to that amendment may also be moved as being only in the second degree.

Equivalent Questions

Sec. 299. The motion to recede being negatived does not amount to a positive vote to insist, because there is another alternative, to-wit: to adhere.

A bill originating in one House, is passed by the other with an amendment. A motion in the originating House, to agree to the amendment, is negatived. Do these result from this vote of disagreement? or must the question on disagreement be expressly voted? The questions respecting amendments from another House are, 1st. To agree: 2d. Disagree: 3d. Recede: 4th. Insist: 5th. Adhere.

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| 1st. To agree. | } | Either of these concludes the other necessarily, for the positive of either is exactly the equivalent of the negative of the other, and no other alternative remains. On either motion, amendments to the amendment may be proposed; <i>e. g.</i> , if it be moved to disagree, those who are for the amendment have a right to propose amendments, and to make it as perfect as they can, before the question of disagreeing is put. |
| 2d. To disagree. | | |
| 3d. To recede. | } | You may then either insist or adhere. |
| 4th. To insist. | | You may then either recede or adhere. |
| 5th. To adhere. | | You may then either recede or insist. |

Consequently the negative of these is not equivalent to a positive vote the other way. It does not raise so necessary an implication as may authorize the clerk by inference to enter another vote, for two alternatives remain, either of which may be adopted by the House. The following notes gives the present practice and rulings in the National Congress:

The Motions to Agree or Disagree

American Parliamentary Practice

Sec. 300. The affirmative of one is equivalent to the negative of the other.

Sec. 301. The negative of the motion to recede is not equivalent to the affirmative of the motion to insist.

Sec. 302. A motion to amend an amendment of the other House has precedence of the motions to agree or disagree.

Sec. 303. The motion to agree, or concur, should be put in the affirmative and not in the negative form.

Sec. 304. A negative vote on a motion to disagree was held equivalent to an affirmative vote to agree.

Sec. 305. The committee of the whole having recommended disagreement to a Senate amendment, and the House having negatived a motion to concur in the recommendation; the Speaker ruled that the House had concurred in the amendment. (Vol. V.)

Sec. 306. When the House disagrees to a Senate amendment after amending it, the adopted amendment is of no effect.

Sec. 307. The motion to amend a motion from the other House takes precedence of the motion to agree or disagree, and before the stage of disagreement has been reached the motion to refer amendments returned from the other House with a bill has precedence of a motion to agree; an amendment of one House being amended by the other, the first House may amend the last amendment, but further amendment is not permissible.

Sec. 308. Speaker Henderson ruled: **"That even the proceeding by unanimous consent could not be used to change the text of a bill upon which the two Houses have agreed."**

Sec. 309. Chairman Olmstead ruled: **"The text to which both Houses have agreed may not be changed in the slightest degree."**

The text to which both Houses have agreed may not be amended even by adding a new section to the bill.

Sec. 310. The fact that an amendment proposed to a Senate amendment would in effect change a provision of the text to which both Houses have agreed does not constitute a reason why the Speaker should rule it out of order.

Amendments Between the Houses

Sec. 311. The fact that a proposed amendment is inconsistent with the text or embodies a proposition already voted on, constitutes a condition to be passed upon by the House and not the Speaker. (Ruling by Speaker Hepburn.)

Sec. 312. In the consideration of Senate amendments in the House, an amendment must be germane to the par

ticular Senate amendment to which it is offered, it not being sufficient that it would be germane to the provisions of the bill.

Sec. 313. When a bill with amendments is in committee, the committee considers only the amendments.

Sec. 314. A motion to lay on the table a bill returned from the other House with amendments is in order; so also is the motion to commit or indefinitely postpone.

Sec. 315. The motion to recede takes precedence of the motion to insist; a motion to recede being decided in the negative, the House does not thereby insist; amendments being in issue between the Houses the motion to recede may be repeated at a new stage of the proceedings.

Sec. 316. A motion to recede and concur is divisible, and being divided and the House having receded, a motion to amend has precedence of the motion to concur.

Sec. 317. A House having receded from its disagreement to the amendments of the House they are open to amendments precisely as before the original disagreement.

Sec. 318. By receding from its disagreement to the amendments of the other House, the receding House does not thereby agree to the amendments.

Sec. 319. One House may not recede from its amendments, with an amendment.

Sec. 320. The stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment.

Sec. 321. While the motion to amend an amendment of the other House takes precedence in the first instance over a motion to agree or disagree, yet if the House has disagreed and subsequently the amendments are again before the House, the motion to recede and agree takes precedence over the motion to recede and agree with an amendment. In other words, the motion best calculated to dispose of the differences between the two Houses ought to take precedence.

Sec. 322. The motion to recede and concur in an amendment of the other House with an amendment takes

precedence of a motion to further insist on the House disagreement to the amendment of the other House.

Sec. 323. The stage of disagreement having been reached, the motion to insist has precedence of the motion to refer.

One House may recede from its own amendment after the other House has concurred with an amendment:

Sec. 324. In ruling upon the last proposition Speaker Carlisle ruled as follows: "The House sends over a bill which the Senate amends and returns to the House. The House concurs in the amendment with an amendment. The question then arises: May the Senate recede from its amendment and concur with the original bill? In such case the Senate has the following course open: It may concur in the House amendment to the Senate amendment.

It may insist on its amendment and ask a conference.

It may adhere to its amendment.

May it also recede from its amendment and concur in the original House bill? Undoubtedly such would be the proper course, had the House disagreed to the Senate amendment instead of agreeing to it in a modified form. Does the partial agreement of the House, which may be in reality no agreement at all, since it may make the Senate amendment more distasteful to the Senate than was the original bill, bind the Senate either to accept this distasteful legislation or to enter upon a course of disagreement against it, when there lies the shorter and more simple form of receding from the original amendment and agreeing to the bill? But if the motion is admissible, which would have precedence, the motion to concur with the House amendment to the Senate amendment or the motion to recede from the original Senate amendment and concur in the bill? Either motion would bring the two Houses together and perhaps the one first made should have precedence." (Vol. V, Chap. CXXXI, Sec. 6227, footnote.)

When both Houses insist and neither asks for a conference the bill is lost; also bills are lost by the adherence of both Houses. The inability of the two Houses to agree

on even the slightest amendment to a bill causes the loss of the bill.

Sec. 324-a. One House having adhered, the other may further insist and ask a conference.

Sec. 325. One House after an amendment or disagreement by the other, may at once adhere, but this does not preclude the granting of the request of the other House for a committee of conference. Where one House adheres it does not preclude the other from receding; and one House having adhered, the other may recede; one House having adhered may recede from its adherence and agree to a conference asked by the other.

Sec. 326. One House recedes from certain of its amendments may not, at a subsequent stage recall their action in order to form a new basis for a conference.

Sec. 327. When one House has adhered it may reconsider its action and recede from its disagreement, and agree to the amendments of the other House with amendments.

Sec. 328. When one House recedes from its amendments to the bill of the other, if there be no other point of difference as to the bill, the bill is thereby passed. (Vol. V, Chap. CXXXI.)

Sec. 329. (A careful study of the parliamentary rules and principles laid down in this chapter will disclose a good procedure to dispose of amendments between the Houses without the intervention of a conference committee which must be resorted to when the foregoing plans fail to bring the two Houses to an agreement, but in most instances the two Houses could reach an agreement by communication between the Houses rather than by conference. To some this route which was the constant practice of the early assemblies of Ohio, may seem longer and more complicated, even so, it will be found much more satisfactory for the entire membership to settle disputed points than to entrust this important work to a half dozen members.)

Division of Amendments

American Parliamentary Practice

Sec. 330. **On the demand of any member, before the question is put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain.** (Rule of Cong. XVI, Sec. 6.)

Practice Under Rule

American Parliamentary Practice

Sec. 331. The principle that there must be at least two substantive propositions, in order to justify a division is rigidly observed, as a failure to do so produces difficulties. (III, 11725).

Sec. 332. In passing on a demand for division, the chair considers only substantive propositions and not the merits of the question presented. (V, 6122) It seems to me most proper, also, that the division should depend on grammatical structure, rather than on the legislative propositions involved. (Vol I, 394; Vol. V, 6119)

But decisions have been made that a resolution affecting two individuals may be divided, although such division may involve a reconstruction of the text. (Vol. I, 623; Vol. V, 6119, 6121)

The better practice seems to be however, that this reconstruction of the text should be made by the adoption of a substitute amendment of the two branches or divisions, rather than by interpretations of the chair. (I, 1621)

Sec. 333. But mere formal words such as "resolved" may be supplied by interpretation of the chair. (V, 6114-6118)

It is not in order to demand a division of related subjects, as when a resolution to adopt a series of rules not made a part of the resolution was before the House, it was held not in order to demand a separate vote on each rule. (V, 6159)

Sec. 334. In voting on the engrossment or passage of a bill or joint resolution, a separate vote on the various portions may not be demanded. (V, 6144-46)

Sec. 335. When a motion to lay several connected propositions on the table is made, a division is not in order. (V-6138, 6140)

On a motion to commit with instructions it is not in order to demand a separate vote on the instructions or various branches thereof. (V, 6134, 6137) But on a series of simple resolutions a division may be demanded. (IV, 6149)

Sec. 336. On a decision of the Speaker involving two distinct questions there may be a division on appeal. (V, 6157)

Sec. 337. A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motions to strike out and insert. (Rule of Cong. XVI, Sec. 7.)

Practice Under Rule

American Parliamentary Practice

Sec. 338. When it is proposed to strike out and insert not one but several connected matters, it is not in order to demand a separate vote on each of those matters. (V, 6124-6125) As when a substitute containing several resolutions is proposed, but after this substitute has been agreed to, it is in order to demand a division of the original resolution as amended. (V, 6127, 6128) When, however, an amendment simply adding or inserting is proposed, it is in order to divide the amendment. (V, 6127, 6133)

Sec. 339. **No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.** Rule of Cong. XVI, Sec. 7a.)

Sec. 340. It is claimed that when this rule was first adopted by the House (1789) it introduced a principle, at that time unknown in general parliamentary law. (V, 5825) It is also claimed that it is of high value in the procedure of the House. (V, 5866)

Sec. 340a. The principle of the rule applies to a proposition by which it is proposed to modify the pending bill, and not to a portion of the bill itself. (V, 6927) Hence an amendment simply striking out words already in a bill may not be ruled out as not germane. (V, 5805)

Sec. 341. While a committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment. (V, 5825)

Sec. 342. Whether or not an amendment be germane should be judged from the provisions of its text, rather than from the purposes which circumstances suggest. (V, 5783, 5803). The rule that amendments must be germane applies to amendments reported from committee. (V, 6188, 6191)

Sec. 343. One individual proposition may not be amended by another individual proposition even though the two belong to the same class. Thus, the following have been held in the House not to be germane, to a proposition relating to the terms of senators, an amendment changing the manner of this election. (V, 5882)

Sec. 344. To a bill proposing the admission of one territory into the union, an amendment for admission of another territory. (V, 5529) To a bill for the relief of an individual, an amendment providing similar relief for another. (V, 5826, 5829)

Sec. 345. To a provision for a clerk of one committee, an amendment for a clerk for another committee. (V, 5833)

Sec. 346. A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject. (V, 5843, 5846) Thus, the following are not germane: To a bill relating to corporations engaged in interstate commerce, an amendment relating to all corporations. (V, 5842) To a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law rather than those of the bill. (V, 5806, 5808)

Sec. 347. A general subject may be amended by specific propositions of the same class, thus, the following have been held to be germane: To a bill providing for the construction of buildings in each of two cities, an amendment providing for a similar building in several other cities. (V, 5840) To a resolution embodying two distinct phases of international relationship, an amendment embodying a third. (IV, 5839) But a resolution authorizing a class of employes in the service of the House, an amendment providing for a specified individual was held not to be germane. (V, 5848, 5849).

Sec. 348. An amendment which is germane, not being on a "subject different from that under consideration," belongs to a class illustrated by the following: To a bill providing for an inter-oceanic canal by one route, an amendment providing a different route. (V, 5909) To a bill providing for the reorganization of the army, an amendment providing for the encouragement of marksmanship. (V, 5910) To a proposition to create a board of inquiry, an amendment specifying when it shall report. (V, 5915) To a bill relating to oleomargarine and other imitation dairy products, an amendment on the subject of renovated butter. (V, 5919) To a resolution rescinding an order for final adjournment, an amendment fixing a new date therefor. (V, 5920) To a bill amending a general law in several particulars, an amendment providing for the repeal of the whole law. (V, 5824)

Sec. 349. **When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer further amendment by way of substitute to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon. Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate. (Rule of Cong. XIX.)**

Practice Under Rule

American Parliamentary Practice

Sec. 350. It is not in order to offer more than one motion to amend of the same nature at the same time. (V, 5755) and two independent amendments may be voted on at once only by unanimous consent of the House. (V, 5779) But the four motions specified by the rule may be pending at one and the same time. (V, 5753)

Sec. 351. An amendment in the third degree is not specified by the rule and is not permissible. (V, 5754) Even when the third degree is in the nature of a substitute for an amendment to a substitute. (V, 5791) But a substitute amendment may be amended by striking out all after the first word and inserting a new text, (V, 5773, 5774) as this, which in effect is a substitute, it is not technically so, for the substitute always proposes to strike out all after the enacting or resolving words in order to insert a new text. After an amendment in the nature of a substitute has been agreed to, the vote must be taken on the original proposition as amended by the substitute. (V, 5785) Both an original proposition and a proposed amendment in the nature of a substitute may be perfected by amendments before the vote is taken on the substitute. (IV, 5786)

Sec. 352. In case involving the foregoing parliamentary situation, Mr. Speaker Carlisle, in answer to a parliamentary inquiry said: "Both the Senate bill and the substitute proposed by the committee are before the House; it is in order to move an amendment to either one before the vote is taken on agreeing to the substitute." (V, 5786)

Sec. 353. When a bill is considered by sections or paragraphs, an amendment in the nature of a substitute is properly offered after the reading for amendments is concluded. (V, 5785) An amendment in the nature of a substitute may be proposed before amendments to the original text have been acted on, but may not be voted on

until such amendments have been disposed of. (V, 5753, 5788)

Sec. 354. But when it is proposed to offer a single substitute for several paragraphs of a bill which is being considered by paragraphs, the substitute may be moved to the first paragraph, with notice that, if agreed to, motions will be made to strike out the remaining paragraphs. (V, 5795) While the rule provides that either an ordinary or substitute amendments may be withdrawn in the House, but may not be withdrawn in committee of the whole. (V, 5221)

Sec. 355. The motion to refer, the previous question not being ordered, has precedence of the motion to amend. (V, 5555) Amendments reported by committee are acted on before those offered from floor. (V, 5773)

Sec. 356. With some exceptions, an amendment may be attached to secondary and privileged motions. (V, 5754) Thus, the motions to postpone, refer, amend, for a recess, and to fix the day to which the House shall adjourn may be amended. (V, 5754) But the motion for the previous question to lay on the table, to adjourn and to go into the committee of the whole to consider a privileged bill may not be amended. (VI, 3078, 3079)

Sec. 357. Mr. Jefferson's rule on striking out is the foundation of the practice in Congress, which is as follows: "If it is proposed to amend by leaving out certain words, it may be moved, as an amendment to this amendment to leave out a part of the words of the amendment, which is equivalent to leaving them in the bill. The parliamentary question is always, whether the words shall stand as part of the bill.

Sec 358. In the House of Representatives the question given by Mr. Jefferson is never put as in parliament but is always, whether the words shall be stricken out, and if there is a desire that certain of the words included in the amendment remain part of the bill, it is expressed, not by amending the amendment, but by a preferential motion to strike out the specified words a portion of them.

Sec. 359. If this is carried the portion thus removed remains a part of the bill and the vote recurs on striking out the residue. (V, 5770) And when a motion to strike out certain words is disagreed to, it is not in order to amend those words by including with them other words of the paragraph. (V, 5768) It is in order to insert by way of amendment a paragraph similar (but not actually identical with one already stricken out by amendment.) (V, 5760)

Sec. 360. The rules of the House provide that a motion to strike out being lost, shall neither preclude amendment nor a motion to strike out and insert. But after an amendment to insert has been agreed to, the matter inserted ordinarily may not be amended, (V, 5761-5763) in any way that would change its text, but an amendment may be added at the end. (V, 5759, 5764, 5765)

Sec. 361. When it is proposed to perfect a paragraph the motions to insert or strike out, if already pending, must remain in abeyance until the amendments to perfect have been moved and voted on, (V, 5758, see also, Jefferson, rule XXXV) and which amendments are pending to a section, a motion to strike out may not be offered. (V, 5771)

Sec. 362. In the peculiar situation wherein, when a matter to strike out a paragraph is pending, the paragraph is pending, the paragraph is perfected by a substitute amendment, the pending motion to strike out must fall, and it would not be in order to strike out exactly what it has just been voted to insert. (V, 5792)

Sec. 363. The rule of Mr. Jefferson is: "When the matter contained in two bills might be better put in one, the manner is to report the one and incorporate its matter into another by way of amendment.

Sec. 364. So if the matter of one bill would be better distributed into two, any part may be struck out by way of amendment and put into a new bill." (The rule of Mr. Jefferson's is merely a statement of the practice of parliament.) In the modern practice of the House of Representatives each bill comes before the House by itself; and if

it were proposed to join one bill to another it would be done by offering the text of one as an amendment to the other, without disturbing the first bill in its place on the calendar. When it is proposed to divide a bill, the object is accomplished in the National House by moving to commit with instructions to the committee. (V, 5527, 5528)

CHAPTER VIII

CONFERENCES

American Parliamentary Practice

Sec. 365. The parliamentary law upon the subject of conferences as laid down by Mr. Jefferson is as follows: (It shows that the earlier practice was somewhat different from present practice).

Jefferson Rule

Sec. 366. "It is on occasion of amendments between the Houses that conferences are usually asked; but they may be asked in all cases of difference of opinion between the two Houses on matters depending between them. The request for a conference, however, **must always be by the House which is possessed of the papers.**"

Conferences Defined

Sec. 367. "Conferences may be either free or simple. At a simple conference written reasons are prepared by the House asking it, and they are read and delivered, without debate to the managers of the other House at the conference, but are not then to be answered. The other House then, if satisfied, note the reasons satisfactory, or say nothing, if not satisfied they resolve them not satisfactory, and ask a conference on the subject of the last conference, where they read and deliver in like manner written answers to those reasons. They are meant chiefly to record the justification of each House to the nation at large and to posterity, and in proof that the miscarriage of a necessary measure is not imputable to them.

Sec. 638. At free conferences the managers discuss viva voce and freely and interchange propositions for such

modifications as may be made in a parliamentary way, and may bring the sense of the two Houses together. And each party reports in writing to their respective Houses the substance of what is said on both sides and it is entered in their journals. **This report can not be amended or altered** as that of a committee may be.

When to Ask for Conference

369. A conference may be asked before the House asking it has come to a resolution of disagreement, insisting or adhering, in which case the papers are not left with the other managers, but are brought back to be the foundation of the vote to be given. And this is the most reasonable and respectful proceeding, for, as was urged by the lords, on a particular occasion, it is held vain, and below the wisdom of parliament to reason or argue against fixed resolutions and upon terms of impossibility to persuade. So the commons say an adherence is never delivered at a free conference, which implies debate and on another occasion the lords made it an objection that the commons had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of commons, that nothing was more parliamentary than to proceed with free conferences after adhering and we do in fact see instances of conferences or of free conferences asked after the resolution of disagreeing; of insisting; of adhering; and even of a second or final adherence; and in all cases of conference asked after a vote of disagreement etc. the managers of the House asking it are to leave the papers with the managers of the other." Our joint rules provide differently relative to papers.)

Free and Simple Conference Explained

Sec. 370. In discussing the nature of conferences, but in reverse order from that of Jefferson, Vice President Hamlin, in ruling upon a point of order in the Senate in the 38th Congress, stated the rule and the distinction between free and simple conferences as fol-

lows: "Conferences are of two characters, free and simple, a free conference is that which leaves the committee of conference entirely free to pass upon any subject when the two branches have disagreed in their vote, **not, however, including any action upon any subject where there has been a concurrent vote of both Houses.**

A simple conference — perhaps it should more properly be termed a strict or a pacific conference though the parliamentary term is simple — is that which confines the committee of conference to the specific instructions of the body appointing it." (Gilfry, *Precedents of the Senate*, p. 210).

Reed Definition of Conferences

Sec. 371. (In the present practice all conferences are free as conducted by legislative bodies in this country.) What is known as a full and free conference is defined by former Speaker Reed in his parliamentary rules, and is a clear and comprehensive definition as follows: "A free conference is one where the conferees meet and present not only the reasons of each House, but such agreements and reasons and persuasions as seem suitable to each member of the committee. Instead of being confined to reasons adopted by the House, each member may present his own. A conference may, therefore, be a free conference though each House may have instructed its members and limited them to the terms of agreement. **This method of conference is the only one known to our parliamentary practice,** at least it is the only one now in practice in this country."

Conferences

American Parliamentary Practice

Disposition of Papers

Sec. 372. At the conclusion of a conference, when the managers have come to an agreement, the managers of the House asking the conference leave the papers (and this means all papers including bill, etc.) with the man-

agers of the other House. It is not necessary for the House disagreeing to amendments to ask for a committee of conference.

Sec. 373. The amending House should be given opportunity to recede from its amendments if it so desire, if not disposed to take such action, they should then insist on their amendments and request a committee of conference, either House may ask for a conference after the vote of disagreement.

Action When Committees Cannot Agree

Sec. 374. When managers of a conference are for any reason unable to come to an agreement they should report to their respective Houses. When managers are unable to agree or where a report is disagreed to, another conference should be asked.

Sec. 375. Either House may pass a bill of the other with amendments and immediately without waiting for a vote of disagreement in the other ask for a conference.

Action When Conference Fails

Sec. 376. If a conference fail the amending House may reconsider its action in passing the bill and then reconsider the vote on the amendments and take them out and pass the bill without amendment, or it could add entirely new amendments and ask for another committee of conference on the new amendment.

Sec. 377. This procedure of asking a conference on the last amendment before the other House disagrees is very unusual and of not frequent occurrence yet it is permissible in our National Congress. Mr. Blaine defended this procedure on the ground it would save time.

Sec. 378. Either House may disagree to the amendments of the other, or disagree to some, agree to some, and agree to others with amendments and ask a conference only on the disagreement leaving it to the House to agree or disagree with their action before asking the conference.

Sec. 379. If one House adheres the other may recede and request a conference which may be agreed to by the adhering House.

Sec. 380. When one House votes to adhere to its disagreement the other may vote to insist and ask a conference. The House that votes to adhere does not ask for a conference, but the other House may; after an adherence by both Houses a conference is not asked.

Sec. 381. A motion to recede has precedence of the motion to insist.

Sec. 382. If the previous question is moved on a motion to adhere, a motion to recede is not in order.

Sec. 383. If one House asks a conference after the other House has adhered, the adhering House may agree to the conference without reconsidering or receding from its vote to adhere.

Sec. 384. When both Houses adhere and neither will recede from its disagreement the bill is lost.

Conference Committees Condemned

(It is the part of wisdom for the two bodies to settle all disagreements between themselves (if possible) without the intervention of conference committees). On May 8, 1884, the Senate of our National Congress added a large number of amendments to a House bill and Senator Frye, of Maine, moved that the Senate ask a conference on the amendments. This motion was vigorously opposed. In his argument against the motion, Senator Bayard, of Delaware said: "The two Houses are deliberative assemblies and the wisdom of their action depends upon the character of the deliberation preceding the adoption of measures. ANY SYSTEM WHICH TENDED TO SUBSTITUTE DISCUSSIONS IN COMMITTEES OF CONFERENCE, WHICH WERE LIMITED BODIES, FOR THE DELIBERATIONS OF THE TWO HOUSES WAS NOT IN HIS JUDGMENT A THING TO BE DESIRED." Speaking the same day on the same subject: Senator John Sherman, of Ohio said: "WE HAVE BY

OUR PRACTICE GRADUALLY EXTENDED THE POWERS OF COMMITTEES OF CONFERENCE, UNTIL NOW A PROPOSITION TO SEND A BILL TO A COMMITTEE OF CONFERENCE SOMETIMES STARTLES ME. * * * I FEEL THAT BOTH HOUSES OUGHT TO TAKE A STAND ON THE ATTEMPT TO TRANSFER THE ENTIRE LEGISLATIVE POWER OF CONGRESS TO A COMPETENT COMMITTEE OF THREE MEMBERS OF EACH BODY, SELECTED NOT ACCORDING TO ANY FIXED RULE, BUT PROBABLY ACCORDING TO THE FAVOR OF THE PRESIDING OFFICERS, OR THE CHAIRMAN OF THE COMMITTEE THAT FRAMED THE BILL; SO THAT IN FACT, A COMMITTEE SELECTED BY TWO MEN, ONE IN EACH HOUSE MAY FRAME AND PASS THE MOST IMPORTANT LEGISLATION OF CONGRESS."

Either House may adhere to their disagreement and refuse a committee of conference.

Sec. 386. The failure of conferences does not prevent either House taking such independent action as may be necessary to pass a bill.

Sec. 387. It is in order and sometimes occurs that one House will adhere and decline to appoint a conference committee. Either House may disregard the request for a conference and recede from its amendments thereby rendering a conference unnecessary.

Sec. 388. A motion to request a conference on the disagreeing votes of the two Houses having been rejected, may not be repeated at the same stage of the bill.

Sec. 389. The foregoing relative to conferences shows the practice and rulings in the National Congress. (Hinds, Vol. V, Chap. CXXXII)

Sec. 390. The persons appointed on conference committees are known as managers or conferees of their respective Houses; conference committees are usually three in number on the part of each House, but upon important matters, the Houses may increase this num-

ber; in a conference the managers of each House vote separately.

Selection of Managers

Sec. 391. In the selection of managers the two large political parties are recognized, of course, the majority party, and the prevailing opinion have the majority of the managers. The invariable practice in Congress is, to select managers from the members of the committee which considered the bill. It is more often the case however, in the practice of Congress that managers are selected to represent the majority view of the House. (Hinds Vol. V, chap. CXXXIII)

Instructions to Managers of Conference

Sec. 392. (The practice of instructing managers of a conference has never been followed in the Ohio Assembly, but has always left them entirely free, but considering the present rules of the assembly, the writer believes this practice could be made a parliamentary instrument of great good). It cannot be said that it is the constant practice of Congress, but its use is so frequent that it has come to be recognized by that body as a very important legislative function.

Sec. 393. Either House may instruct its managers of a conference and the motion to instruct must be offered after the vote to ask for or agree to a conference and before the managers are appointed. It is not in order to give such instructions to managers of a conference as would require them to make changes in the text of the bill to which both Houses have agreed. Instructions to managers may not relate to a part of the bill not in disagreement between the two Houses, or to any subject not committed to the conferees: (Hinds, Vol. V, Sec. 6388, 6389, 6370, 6391.)

Sec. 394. Speaker Carlile in a very important ruling laid down the following parliamentary principles: "The proceedings when there has been a disagreement between the two branches of a legislative body are different in many

respects from the proceedings in other cases. The paramount object of all such proceedings is to bring the two branches to an agreement.

Sec. 395. Therefore either may, without reconsidering previous votes, take action in a directly opposite direction. For instance, the House may refuse to concur in an amendment and may afterwards insist again and again upon its disagreement to the amendment, and yet it may ultimately, without reconsidering any of these votes, recede absolutely from its disagreement or recede from it with an amendment, as its judgment may dictate. *.**

Sec. 395-a. The whole effect of a conference report is to bring the matter again directly before the body for its consideration and action. It does not bind the House at all. The House may refuse to agree to it, in which case the whole subject is again open and the House may absolutely recede from its disagreement to the Senate amendment or recede with an amendment."

Sec. 397. The early practice of Congress was when one House instructed its managers to notify the other House of such instructions, this practice is not now strictly observed. In one instance in Congress the House instructed its managers and did not notify the Senate of such action. The Senate having learned indirectly of the action of the House, declared the conference should be full and free and instructed its own managers to withdraw from the conference if they should find its freedom impaired. The minority portion of a conference committee have no authority to make either a written or verbal report concerning the conference. (Vol. V, chap. CXXXLV)

Sec. 398. The managers of a conference are usually according to the rules, three in number, but it is permissible for the House asking the conference to regulate the number as it may choose. (Precedents U. S. Senate.) Whenever any change is made in the personnel of a conference committee, the House making such change should notify the other of the change.

Managers May Consider Only Matters in Disagreement

Sec. 399. (The parliamentary law and principles set forth in this chapter is the law and practice of every legislative body in the world, but notwithstanding that stupendous fact the Ohio Assembly for the past twenty years has proceeded under joint rule 12, which in effect sets aside all parliamentary law on the subject of the powers of conferees, for this reason what shall follow cannot be applicable to the Ohio practice until the rule mentioned is cancelled or repealed.)

Sec. 400. Mr. Jefferson says: "It is unparliamentary to strike out at a conference anything in a bill, which hath been agreed to and passed by both Houses."

Sec. 401. The managers of a conference may not in their report include subjects not within the disagreements submitted to them by the two Houses. As early as 1812, Speaker Henry Clay, declared a conference committee report out of order inasmuch as the managers had discussed and proposed amendments which had not been committed to them by either House.

Sec. 402. While the managers may perfect by germane amendments propositions committed to them, they may not go beyond the differences of the two Houses in so doing.

Sec. 403. In ruling upon the question of powers of conference committees, **Speaker Crisp** said: "The question to determine is whether the amendment which has been agreed to and reported by the conference committee is germane to the amendment of the Senate or to the original bill.

Sec. 404. The amendment may be germane to the original bill, yet if it is germane to the Senate amendment the conference committee might report it.

Sec. 405. **The chair thinks the practice of enlarging the powers of conference committees beyond the strict letter of the rule is wrong, that conferees ought to be held to the rule."**

Sec. 406. When a report is ruled out of order it amounts to a vote of rejection and the other House should be so notified. Ruling upon this same question, Mr. Reed said: **"The chair dislikes to pass upon such matters as this, but it is a well-established fact that no conference committee can introduce a new subject, one that was not in dispute between the two Houses."**

Sec. 407. A conference committee may not include in its report new items, constituting in fact a new and distinct subject not in difference, even though germane to questions in issue.

Ruling By Speaker Champ Clark

Sec. 408. One of the very important recent rulings on this subject was by Speaker Champ Clark which was: "Where one House strikes out all of the bill of the other House after the enacting clause and inserts a new text and the differences over this substitute are referred to a conference, the managers have a wide discretion in incorporating germane matters, and may even report a new bill on the subject."

Sec. 409. A point of order against a conference report should be made or reserved after the report is read. The processes of the National Senate and House are entirely different. The Speaker of the House on points of order that managers have exceeded their authority rules conference reports out of order, if found to contain subject matter not in disagreement. In the Senate in case such matter is included the custom is to submit the question to the Senate.

Sec. 410. A conference committee report may be withdrawn and modified by unanimous consent. (Cleav's Manual of Conferences.)

Sec. 411. Conference committee reports may not be amended or altered on motion made in either House. In June, 1906, the House of Representatives of Congress was considering a conference report, when Mr. Williams, of

Mississippi, proposed to amend it, closing the discussion Speaker Cannon said, answering parliamentary inquiry:

Sec. 412. "If the conference is voted down, then the Senate amendments to the House bill are undisposed of as fully as they were when they were first disagreed to. *** Oh, but the gentleman sees at once that this is a conference report which stands as a unit. The effect of the report is to dispose of all matters of disagreement between the House and Senate, and there is but one possible disposition to be made of it, and that is **to reject or agree to it.** If the gentleman will indulge the chair, a proposition like unto that which he makes for unanimous consent would, if agreed to, **be barren, or if it had any effect at all it would be equivalent to a rejection of the report;** but if it served no other useful purpose, it might give somebody the opportunity to claim that if he were the Lord he would do this, that or the other thing. * * * This is a proposition that the Senate is interested in as well as the House, a proposition to close the matters of difference, and the only way to close them is by adopting the conference report, or by rejecting the conference report, and put all the Senate amendments in difference again. * * * The chair will state the gentleman asks something the House has not the power to do in the present stage of this measure. If it has any effect at all it would be equivalent to rejecting this measure."

Sec. 413. Notwithstanding this very clear and important ruling of Speaker Cannon, Congress has found a way to amend a conference report by joint resolution. In the 33rd Congress the following resolution was adopted and carried into effect.

Amending Conference Report—Form

Sec. 414. Resolved, that the report of the conference committee on the disagreeing votes of the two Houses on the bill of the Senate No. 96 (here follows title) heretofore agreed to by both Houses, be amended by striking out the words "six hundred and fifty in the third line of the

second page of said report, and inserting in lieu thereof the words five hundred and fifty." This resolution was adopted by both Houses and the amendment was made after the conference report had been adopted by both Houses.

It sometimes happens in Congress that a part of a conference report is adopted and a portion of it rejected. (Gilfrey's Precedents of U. S. Senate pp. 254-255.)

Sec. 415. If a conference fail to reach an agreement the two Houses may successively, as they come into possession of the papers act on the amendment in disagreement, as amending, further insisting or receding and concurring.

Sec. 416. **A conference constitutes practically two distinct committees, each of which acts separately and by a majority vote.** Mr. Hinds says:

Sec. 417. **"The managers of the two Houses while in conference vote separately, the majority in each body determining the attitude to be taken toward the proposition of the managers of the other House,** when the report is made, the signature of a majority of each board of managers are sufficient. The minority managers frequently refrain from signing the report, and it is not unprecedented for a minority manager to indorse his protest on the report. (Hinds Vol. V, p. 285)

Sec. 418. Managers of conference committees must represent the majority views of the House appointing them, in other words, the chair should only appoint such members of a conference committee as will stand by the action of the House and not by their own personal views. (Sec. 6518)

Sec. 419. **A conference committee report may not be considered when the original bill and amendments are not before the House.**

Sec. 420. A conference committee report being called up in the House, Speaker Cannon said: "The clerk informs me there has been no message from the Senate on this subject, and we do not have the original papers.

It is impossible to consider this report unless the papers are before the House, and they do not seem to be in possession of the House. The report and statement of the conferees are in our possession but not the bill, and it has been repeatedly held, and long ago threshed out, **that business cannot be done, unless the papers are in possession of the House.** Mr. Sulzer, then as a parliamentary inquiry asked, "What papers are necessary?" The Speaker replied, "The bill itself and the substitute and all of the original papers in this case. **The chair will state that nothing can be done until these original papers are found.**"

Sec. 423. A conference committee report was submitted in the Senate without the bill and other papers and Senator Edmunds, of Vermont, called for the bill. It was explained that the bill was then in the hands of the engrossing clerk. Senator Edmunds demanded it as a right, claiming the bill should be before the Senate when the conference report was acted upon. Vice President Wheeler ruled that the point of order was well taken, and the consideration of the report was deferred until the bill was procured.

Sec. 424. (When a committee of conference have met and come to an agreement the managers who take possession of the papers should at once take the papers and bill to the office of the clerk of their body and deliver all such papers to the engrossing clerk for engrossment in the form agreed upon. No report should be offered in either House before such engrossment has taken place. The committee should also go over the engrossed bill carefully that they may know that it is in the proper form for presentation for passage.)

The adoption of the conference committee report is in fact the final passage of the bill. A careful observance of these suggestions will prevent many mistakes and errors creeping into bills which may not be found until too late to correct them.

Sec. 425. The foregoing procedure will very much facilitate business by eliminating the cause of unnecessary delays by provoking debate.) Managers may report an agreement as to a portion of the amendments in disagreement, leaving the remainder to be disposed of by subsequent action. On August 10, 1846, the following conference report was received in the National House:

Partial Report of Conference Committee

Sec. 426. "The conferees on the part of the House have met the conferees on the part of the Senate upon the disagreeing votes of the two Houses upon the amendments to the bill making appropriations for the naval service, etc., and, after free and full conference on the subject of said disagreeing votes, the conferees have agreed to recommend, and do recommend to their respective Houses, that the House recede from their disagreement to the first amendment of the Senate, and agree to the same amended by striking out all thereof after the word "employed" in line 6 that the House recede from its amendment to the third amendment of the Senate and agree to the same, that the House recede from the amendment to the tenth amendment of the Senate and agree thereto; and the conferees have not been able to agree upon the eighth and ninth amendments of the Senate to said bill disagreed to by the House." The House proceeded at once to consider the report and the amendments still at issue between the Houses. Later the House and Senate agreed to the report, but the House further insisted on its disagreement to the eighth and ninth amendments. Another committee was appointed. Later in the same session a similar report to the foregoing was received by the Senate, when the President Pro Tem. raised the question that the adoption of the report would be to adopt the conference report piecemeal, and said he was not aware that such procedure had ever taken place.

Sec. 427. Senator James G. Blaine said: "The only usage I have known that justifies a partial report of this

kind, is when it gives to the one body or the other a ground for receding if it chooses. If its judgment is that the only point of disagreement left is worth insisting upon, it recedes; but if it is worth insisting upon it simply asks another conference. That is all there is of it; and these partial reports are often made merely to let the body to which they are communicated judge whether on the whole it will further insist. The question on agreeing to the report was not put in the Senate.

Sec. 428. On the following day the same question arose in the House and Speaker Joseph Blackburn said: "The chair thinks there are many precedents where the House has accepted reports of conference committees agreeing in part and disagreeing as to the remaining matters in dispute. The chair knows of no rule which would deny the House the power to accept such a report. He thinks this report of the committee of conference is in order, but should it be adopted the two Houses will only stand agreed upon such matters as the committees of conference of the two Houses have united upon. The other matters will be left pending between the two Houses." It appears from the journals that both Houses acted upon the partial report, leaving the amendments still in disagreement for a future conference. (Vol. V, pp. 761-2)

Sec. 429. A good general form of a report of a committee of conference is as follows: The committee of conference of the disagreeing votes of the two Houses on the amendments of the Senate to (insert title) having met, after full and free conference, have agreed to and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered ——— that the House recede from its disagreement to the amendments of the Senate numbered ——— and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered ——— and agree

to the same with an amendment as follows _____ and the Senate agree to the same.

Managers on the part of the House.

Managers on the part of the Senate.

Sec. 430. On the duplicate copy which is presented in the Senate, the Senate managers should sign first.

The written statement accompanying a conference report need not preserve regularity as to form so long as it embodies a fairly comprehensive statement of the effect of the settlement of the conference.

Another form is: The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to S. B. No. _____ submit the following written statement explaining the effect of the action agreed upon. _____

Managers on the part of the House.

Managers on the part of the Senate.

Sec. 431. The engrossed bill that accompanies the report of the committee must in all respects agree with the committee recommendations.

Sec. 431-a. When either House disagrees to a conference report the matter is left in the position it was in before the conference was asked and the amendments in disagreement come up for further action.

Sec. 431-b. When a conference breaks up without reaching an agreement the managers for the House which asked the conference, who have a right to the papers are justified in retaining them and carrying them back to the House.

Dissent from Committee Report

Sec. 432. Sometimes a manager indorses the conference report with a conditional approval or dissent. On August 1, 1861, the conference report on the bill for the better organization of the army was signed by all the managers, but before the name of Senator John Sherman, of Ohio, the following indorsement appeared: "I agree to this report except to the proposed increase of the staff of the army." On March 2, 1861, the report of the managers of the Indiana appropriation bill was presented to the House. It was signed by all the conferees, but before the name of John S. Phelps are the words "I dissent."

Sec. 433. The journal of the House shows many instances where members have signed various committee reports with similar notations before or following their name, such as "I dissent"; "I dissent from this report"; "I dissent from the above report"; "I do not concur in the above recommendation and report"; "the undersigned, a manager on the part of the House, does not agree to the recommendations in this report"; etc.

A Strict Rule of Parliament

Sec. 433a. No one is permitted to speak at committees of conference except those of the committee; when a conference committee report is read members of the committee stand up. No persons are permitted to attend a meeting of a committee of conference except such as are commanded to attend. (May p. 328)

Sec. 433b. Another practice of Parliament to bring about agreements between the two houses is joint committee meetings, which is effected by putting committees of both houses in communication with each other. e. g. The House

having a difficult problem to solve would refer the matter to a committee, say taxation, and instruct that committee to meet and confer with the committee on taxation of the Senate. Then a message should be sent to the Senate notifying that body of the action of the house and requesting that instructions be given to its committee to comply with the request of the House. (May, p. 329)

CHAPTER IX

MOTIONS AND QUESTIONS

Order of Business of the Day in the Senate.

Sec. 434. As soon as the Senate is called to order prayer may be offered, and a quorum being present, the journal of the preceding legislative day shall be read by the clerk, and, if necessary, corrected by the Senate.

As soon as the Journal is read and approved, the order of business shall be as follows:

1. Presentation of petitions and memorials.
2. Offering of motions and resolutions.
3. Introduction of bills.
4. Bills for second reading.
5. Reports of standing committees in their alphabetical order.
6. Reports of select committees.
7. Resolutions laid over under Rule 73 or Rule 86.
8. Amendments to Senate Bills laid over under Joint Rule No. 9.
9. Bills for third reading.

Sec. 435. **Disposition of.** — The business of the Senate shall be disposed of in the order in which it is arranged, and not otherwise, unless by leave of two-thirds of the Senators present.

Sec. 436. **Call of Committees.** — If the calling of the committees for reports be not completed on any given day, the Clerk shall, on the subsequent day, on reaching the order of "Reports of Standing Committees," commence with the committee next in order after the last called on the previous day.

Sec. 437. **Privileged Communications.** — Messages from the House of Representatives and communications from any branch of the executive department of the state, may be received, read and disposed of at any time, except when the President is putting a question, while the yeas and nays are being called, or while ballots are being counted, unless objection is made to the reading, when the Senate shall decide.

Order of Business of the Day in the House.

Sec. 438. As soon as the House is called to order prayer may be offered, and a quorum being present, the Journal of the preceding day shall be read, and if necessary, corrected by the House.

After the Journal has been read and approved, the order of business on Mondays and Saturdays, and Tuesdays, when the House has not been in session the preceding day, shall be as follows:

1. Report of standing committees in their order.
2. Resolutions and motions.
3. Introduction of bills — counties to be called in alphabetical order.
4. Bills for their second reading.
5. Resolutions laid over under Rule 89.
6. Reports of select committees.
7. Bills for their third reading.

On all other legislative days, the order of business shall be as follows:

1. Bills for their third reading.
2. Resolutions laid over under Rule 89.
3. Reports of standing committees.
4. Reports of select committees.
5. Bills for their second reading.
6. Introduction of bills — counties to be called in alphabetical order.
7. Introduction of resolutions.
8. Presentation of petitions and memorials.

Sec. 439. **Changing Order of Business.** — The order of business shall not be changed, unless by unanimous consent, or a suspension of the preceding rule.

Sec. 440. **Making a Special Order.** — Any matter may be made a special order for a particular hour of a day, by a two-thirds vote of the members present.

Petitions and Memorials

Sec. 441. Every petition and memorial shall be referred as directed by the member who presents it, provided that the House may at any time re-refer it.

Sec. 442. **Privileged Communications.** — The Committee on Enrollment may report at any time when the House is not otherwise engaged.

Messages from the Senate and communications from any branch of the Executive Department of the state may be received, read and disposed of at any time, except when the Speaker is putting a question, while the yeas and nays are being called, or while ballots are being counted.

List of Privileged Motions in the Order of Their Precedence

Sec. 443. **Meaning of Precedence.** — By order of precedence is meant that when any given question is pending any motion standing above it in the list may be made and be in order.

Sec. 444. **Accepted Authorities.** — The numbers indicate the precedence of motions as provided for by the rules of the House. Cushing's Law and Practice of Legislative Assemblies and Roberts' Rules of Order are accepted in all cases not provided for by the rules of the Senate and House.

Sec. 445. **(1) To Adjourn** — (*When unqualified.*) — This motion is highly privileged and permits the body to rest from its labors. Some parliamentarians have fallen into the error of saying that the motion to adjourn is always in order. There are many exceptions to this statement.

A motion to adjourn cannot be made while a member has the floor. Cannot interrupt the verification of a vote and cannot be obtained while an assembly is divided. Neither can it be repeated until some business has intervened.

Sec. 446. **(2) To Recess.** — When the body by special rule has fixed a time at which the session shall be resumed from day to day, the motion for a recess, like the motion to adjourn is highly privileged.

When a recess has been ordered to begin at a future time, a motion to adjourn would carry that House to the next regular session.

Note. — The motion to adjourn does not require the presence of a quorum.

Sec. 447. **(3) To take up the Orders of the Day.** — The orders of the day are provided in the rules of the Assembly and generally are printed in the Calendar. When orders of the day are reached they can be called upon the suggestion of any member or the presiding officer.

The orders of the day are not irrevocable. The Assembly might prefer to go on with the business already before it. In that event, the question of consideration could be raised against the order and if such questions were defeated, the business previously pending can be resumed.

Sec. 448. **(4) To Lay on the Table.** — The purpose of this motion is to suspend the consideration of a question during the pleasure of the Assembly. If adopted, it carries with it all questions and pending amendments to the table. In other words, if the motion is made upon the main question and it prevails, it carries all amendments to the table with it. Or if the motion is made upon a pending amendment and it prevails, it carries the main question with it.

Sec. 449. **(5) Previous Question.** — The purpose of the previous question as used in the General Assembly of Ohio is to suppress debate and bring pending questions to an immediate vote. When this motion is made, the presiding officer should say: **"The previous question**

has been regularly demanded, the question is: Shall the debate now close it is put thus in Congress," as many as are in favor of ordering the previous question shall say 'aye', as many as are opposed shall say 'no'."

If the motion is decided in the negative, the consideration of the pending questions go on as if the motion had never been made; if decided in the affirmative, then the presiding officer at once, without debate, proceeds to put first, the pending amendments in the order of their introduction and then the main question as amended.

Any five members of the House and any three members of the Senate may demand the previous question.

Sec. 450. **(6) To Postpone to a Day Certain.**— This is merely the postponement of the consideration of a pending question, to a fixed time. This motion is often resorted to to give members better opportunity for the consideration of more important questions.

Sec. 451. **(7) To Commit.**— Whenever the Assembly in the consideration of a question before it finds that it cannot satisfactorily, by amendment or otherwise, get the question into proper form, it is customary to refer same to a committee. This motion can be made at any time after the question has been stated or the bill or resolution read. The fact that the bill has been considered by a committee at a previous time does not preclude this action.

Sec. 452. **(8) To Amend.**— After a question has been stated or a bill or resolution read, (bills after third reading) it is open to amendment in all its parts. Except title and number. In this manner bills are, as nearly as possible, perfected before engrossment or enrollment.

Sec. 453. **(9) To Postpone Indefinitely.**— The purpose of this motion is to prevent a direct vote on the question. If decided in the affirmative the bill is defeated; if in the negative, the bill proceeds as if the motion had not been made.

Motions — Effect Of

Sec. 454. Every motion made and entertained by the Speaker must be reduced to writing on demand of the Speaker or any other member.

When a question is under debate certain motions only are received and their precedence is governed by a rule of the House.

Precedence of Motions

Sec. 455. If a motion to indefinitely postpone were pending, any one of eight motions standing above it could be made and must be put to the House and voted upon before the question of indefinite postponement is voted upon. If any of the preceding motions were agreed to the motion to indefinitely postpone would thereby be defeated.

The motion to commit takes precedence of the motion to amend. A motion to commit a pending amendment would if adopted, commit also the bill.

Sec. 456. When a motion is made it must be distinctly stated by the Speaker, or read by the clerk before debate thereon is permissible.

Sec. 457. **Question of Consideration.** — The question of consideration being pending, a motion to commit is not in order until the question of consideration has been disposed of.

Sec. 458. **A Motion to Postpone.** — A motion to postpone either to a day certain or indefinitely, if negatived, is not again in order at the same stage of the proposition.

A motion to suspend the rules may not be indefinitely postponed.

Sec. 459. A privileged motion loses its precedence if other matter be connected therewith.

Sec. 460. **Note.** — The rules of the Assembly enumerate the motions that are in order when a question is under debate. Among the motions that are permissible the motion to strike out "the enacting clause" is not included, however, such motion may be offered in the form of an

amendment as follows: "Mr. Doe moves to amend the bill as follows: Strike out the enacting clause."

Sec. 461. **Striking out Enacting Clause.** — The motion to strike out the enacting clause would take precedence of a motion to amend other parts of the bill.

Sec. 462. When the motion to strike out the enacting clause prevails the bill is defeated.

Sec. 463. **Withdrawal of Motion.** — A motion pending before the House can not be withdrawn after a demand for the yeas and nays has been made, nor can it be withdrawn by the mover after it has been stated by the presiding officer except by the consent of the body.

Sec. 464. **To Oppose Bill.** — Opposition to a bill may be made in several ways, namely, by postponement to a day beyond the session; indefinite postponement; by putting a negative upon any motion to advance it from one stage to another, or by a motion to reject.

Privileged Motions

(For Ready Reference)

Sec. 465. **Definition of.** — Privileged motions are those which, on account of their importance, take precedence of all other questions.

Sec. 466. **To Fix the Time to Which to Adjourn.**

May be re-considered.

If lost may be renewed after intervening business.

May not have a subsidiary motion applied when another question is pending before the House.

Is debatable when no other question is pending.

May not be amended except by changing the time.

May not be laid on the table.

Previous questions cannot be applied.

May not be postponed.

May not be committed.

The hour to which the House stands adjourned each day is provided for by the rules. If it is desirable to have a session at some time different from that provided in the

rules, some time during the session then existing the following motion should be made: Mr. Speaker, I move that when the House adjourns today, that it adjourn to meet (here give the day and hour.)

Sec. 467. (1) To Adjourn. — (When unqualified.)

Becomes the principal motion.

May be renewed after any intervening business.

Is always in order except when the House is voting on a pending question.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question does not apply.

Sec. 468. (2) To Recess.

Is not in order during a call of the House.

Can be amended.

Can be debated.

May not be committed.

May not be divided.

May not be postponed to a day certain.

May not be indefinitely postponed.

Previous question does not apply.

Sec. 469. (3) To take up the Orders of the Day.

May be reconsidered.

In order though another may have the floor.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question does not apply.

A "special order" takes precedence of "general orders" and suspends all rules of the House that interfere with its consideration.

Sec. 470. (4) To Lay on the Table.

The negative vote only can be reconsidered.

May be renewed after intervening business.

Disposes of the subject until it is taken from the table.

Takes with it everything adhering to the subject except in cases of appeal and corrections to the Journal.

If a motion prevails to lay a pending amendment to a bill or resolution on the table it carries the bill or resolution with it.

May not be debated.

May not be amended.

May not be laid on the table.

May not be committed.

May not be postponed.

Previous question does not apply.

Sec. 471. (5) Previous Question.

May be reconsidered.

Requires a two-thirds vote.

May be renewed after intervening business.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Applies to and takes precedence of all debatable questions.

A call of the House is not in order after the previous question is put and carried.

Sec. 472. (6) To Postpone to a Certain Day.

May be reconsidered.

May be renewed after intervening business.

Is debatable as to propriety of postponement.

May be amended by changing time.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question applies but does not affect other pending motions.

Sec. 473. (7) To Commit.

May be reconsidered.

Does not open main question to debate, except in a very limited way.

May be renewed after intervening business.

May not be amended except to give committee instructions or to change committee.

If laid on the table carries main subject with it.

May not be postponed.

Sec. 474. (8) To Amend.

All amendments must be germane to the pending question.

May be reconsidered.

Must be in writing if demanded by the Speaker or any member.

Can be amended

Is debatable.

Can be laid on the table, but carries with it the main question and everything adhering to the subject.

Can be postponed, but carries with it the main question, and everything adhering to the subject.

Can be committed but carries with it the main question, and everything adhering to the subject.

Previous question applies.

Sec. 475. (9) To Postpone Indefinitely.

May be reconsidered.

Debatable and opens the main question to debate.

May be renewed after intervening business.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question applies without effecting other pending motions or main question.

Incidental Motions

Sec. 476. **Definition of.**—Incidental motions are those arising out of other questions, they therefore take precedence and must be decided before the questions giving rise to them.

Sec. 477. Division of the House.

A division of the House may be demanded at any time before the Speaker announces the vote on any question.

May be reconsidered.

In order though another may have the floor.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question cannot be applied.

A demand for a division is the right of a single member, and should be recognized immediately. It means that the members shall arise on the affirmative and negative vote and be counted. The Speaker announcing the result of the count.

Sec. 478. Appeal.

May be reconsidered.

In order though another may have the floor.

Not in order when another appeal or a division is pending.

Not debatable when relating simply to indecorum, or transgression of the rules, priority of business, or while the previous question is pending.

May not be amended.

May not be postponed.

May not be committed.

When debatable the previous question applies.

Speaker may request debate on appeal.

The Speaker in rendering decisions on questions of order should use great care and know that the decision he

renders is in harmony with the rules of the House, or Cushing's Manual of Legislative Practice or Robert's Rules of Order.

Members should not for personal gain or temporary advantage appeal from the decision of the presiding officer. If an appeal is taken from the decision of the chair the member taking such appeal should know beyond doubt that the Speaker's decision is not according to the rules of the House, or Parliamentary Law. Under "high tension" or the manifestation of more than ordinary interest in a bill, members may vote against or for the decision of the presiding officer, and thereby establish a precedent that may later operate detrimentally to more important measures.

Questions of Privilege

Sec. 479. **Definition of.** — Questions of Privilege relate to rights of the Assembly or individual members. If for any reason a member is aggrieved, or desires to explain his action in any matter, he may rise to a question of personal privilege. The question of personal privilege must not be confounded with Privileged Questions.

Form of motion: Mr. Speaker, I rise to a question of privilege (here follows subject matter).

Whether it is a question of privilege is decided by the presiding officer, subject to appeal to the House.

May be reconsidered.

In order though a member may have the floor.

Subsidiary motions may be applied to them.

Previous question applies, but does not affect other pending business.

Questions of Order

Sec. 480. **Enforcement of Rules.** — The rules of the House should be strictly enforced by the Speaker. Any member noticing a violation of the rules is privileged to rise to a point of order. When necessary to raise a point of order the member should rise and say: "Mr. Speaker, I rise to a question of order." The Speaker should answer: "The gentleman from (naming county), will please state

his point of order. After the point of order has been stated it is decided by the chair.

May be reconsidered.

In order though another may have the floor.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question applies if debated.

A question of order is always subject to an appeal from the chair.

Sec. 481. Demands for the Yeas and Nays.

Any two members may demand the yeas and nays upon any question.

The demand may be withdrawn by consent of the House.

In order though another may have the floor.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question does not apply.

Sec. 482. Objection to the Consideration of a Question.

If any main or principal question, bill, resolution or amendment is brought before the House and any member thinks the same is improper or unprofitable to consider, he may before debate rise and say: "Mr. Speaker, I desire to raise the question of consideration." The Speaker then says: "Shall the question be now considered," taking the affirmative and negative vote thereon.

Question of consideration must be raised immediately after introduction of the question.

May be reconsidered.

In order though another may have the floor.

Requires a two-thirds vote to object to a consideration.

May not be debated.
May not be amended.
May not be laid on the table.
May not be postponed.
May not be committed.
Previous question does not apply.

Sec. 483. To Withdraw a Motion.

After a motion has been made it is in possession of the House, but may be withdrawn if no objection is made. If objection is made it cannot be withdrawn except by a motion to that effect

May be reconsidered.
May not be amended.
May not be debated.
May not be laid on the table.
May not be postponed.
May not be committed.
Previous question does not apply.

Sec. 484. To Suspend the Rules.

Requires a two-thirds vote.

A motion to suspend the rules for the same object cannot be renewed.

May not be amended.
May not be debated.
May not be laid on the table.
May not be committed.
May not be postponed.
Previous question does not apply.

Subsidiary Motions

Sec. 485. Definition of.— Subsidiary motions are those which are applied to other motions in order to dispose of them in the most appropriate manner.

Sec. 486. To Amend an Amendment.

This is an amendment in the second degree.

An amendment to the amendment to amend the instructions to amend is out of order.

May be reconsidered.

May be laid on the table, but carries with it the main question and everything adhering to the subject.

Can be postponed, but carries with it the main question and everything adhering to the subject.

Can be committed, but carries with it the main question and everything adhering to the subject.

Questions of. appeal, motions to reconsider and to correct the Journal do not carry with them the main question and the subject matter adhering thereto if laid on the table, postponed or committed.

Previous question applies.

Debatable.

Principal Motion

Sec. 487. **Definition of.** — The principal motion or main question is that by which any subject is brought before the House for consideration.

Does not take precedence of anything except another principal motion and yields to all subsidiary, incidental and privileged motions.

May not be made when another question is before the House.

Sec. 488. **To Reconsider.**

May not be amended.

May not be acted upon when another question is before the House.

No question can be twice reconsidered.

May not apply to vote on motion to adjourn, suspend rules, and affirmative vote to lie on table or take from table.

A vote which has caused action that cannot be reversed, may not be reconsidered; cannot interfere with discussion of question before the House.

In order even after vote to adjourn, if not stated by the chair.

Must be made within two calendar days of actual session of the House.

Takes precedence of all motions before the House except to adjourn.

When a vote on any question is not taken by yeas and nays any member may move a reconsideration of the vote, otherwise only a member voting on the prevailing side can make such motion.

Is debatable and opens the main question to debate if the question to be reconsidered is debatable.

Previous question applies without affecting other pending motions.

Amended motion must be reconsidered before amendment.

Suspends all action required by original motion till acted on.

If adopted places original question in same position as before voted on.

Requires only a majority vote.

A motion to reconsider may be made even though the papers effected are not in possession of the House, but action thereon may not be taken until the papers have been returned.

Sec. 489. To Make a Subject a Special Order.

Suspends the rules and requires a two-thirds vote.

May not be made except under the order of business, "Resolutions and Motions," except by unanimous consent or by leave of the House, unless the proposition is up for consideration.

May be reconsidered.

May not be laid on the table.

May not be postponed.

May not be committed.

Can be amended as to time.

Is debatable, but does not open the main question.

A special order is a decision of the House to consider a question at a stated time.

Special orders appearing on the calendar on the same day are taken up in their order. It frequently happens that before the final disposition of one special order, the time arrives for the consideration of another, in this case the House continues its consideration, but the member whose

special order follows should rise and say: "Mr. Speaker, I desire to call the attention of the House to the special order set for this hour" (naming the proposition to be considered). This notice retains the place of the special order on the calendar for the day. At the end of each legislative day all special orders not acted upon fall and are placed at the foot of the calendar.

If it is desired that the proposition remain a special order the member having same in charge should before adjournment make a motion to make it a special order for the following day. This is considered a privileged motion.

Sec. 490. **Filling Blanks.**

Suggestions to fill are made without formality of motion.

The largest sum and longest time should first be put to vote.

May be reconsidered.

Is debatable as to the filling of the blank.

May be amended.

May not be postponed.

May not be committed.

Previous question applies.

Sec. 491. **Renewing a Motion.**

Principal motions and amendments once decided cannot be acted on again at the same session except by motion to reconsider.

Motion to adjourn may be renewed after progress in business.

Any privileged motion, except orders of the day, incidental motions except suspension of the rules; and subsidiary motions except to amend may be renewed after any motion altering the state of affairs.

Sec. 492. **To Take up a Question out of Order.**

Suspends the rules and therefore requires a two-thirds vote.

May be reconsidered.

May be renewed after intervening business.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question does not apply.

In order whenever the principal motion is in order.

Sec. 493. **To Take from the Table.**

In order only under the order of business, "Resolutions and Motions."

The negative vote only can be reconsidered.

Motion may be renewed after intervening business.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question does not apply.

Sec. 494. **Call of the House.**

Any two members may demand a call of the House. This merely means that those demanding such call desire to know the number of members present and to compel attendance of absent members. When this demand is regularly made, the clerk calls the roll to ascertain the number of those present and those absent. When the result is announced the Speaker usually orders the sergeant-at-arms to dispatch his messengers to bring in the absentees.

May be reconsidered.

Demand may be withdrawn by consent of the House.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question does not apply.

Amendments

Sec. 495. **Nature of.** — Amendments must be germane to the subject proposed to be amended.

The rule that amendments must be germane to the subject applies to amendments reported by committees.

Sec. 496. **Amending Title.** — Amendments to the title of a bill are only in order after the passage of a bill and such amendments are not debatable.

Words embodying a distinct substantive proposition once agreed to as an amendment cannot be amended by striking out a part of those words with other words.

Sec. 497. **Amending Bill.** — A motion to strike out and insert is indivisible.

An amendment to strike out certain words in a paragraph cannot be amended by adding to the amendment certain words in the same paragraph.

A motion to strike out certain words may be amended by a motion to strike out a portion of them.

While amendments are pending to any section of a bill, a motion is not in order to strike out such section.

Substitutes offered by way of amendment to bills and resolutions are treated as original propositions.

By amendment, paragraphs or sections of a bill may be transposed or transferred.

The substance of a bill pending before the House may not be offered as an amendment to another bill.

When a motion to refer a bill with instructions to amend is pending, it is not in order to amend the instructions by directing an amendment to any other part of the bill.

Bills may be amended at any stage of their progress through the House except upon first reading.

A substitute may be offered for a bill and pending amendments.

If a portion of an amendment is out of order the whole amendment should be ruled out.

When the House decides to consider a bill section by section, it is not in order to offer a substitute bill until action is taken on the final section.

The motions to postpone, refer, amend, recess, and to

fix the time to which the House shall adjourn, may be amended.

An amendment offered to a bill may be accepted by the member in charge of the bill, but such acceptance is not sufficient, the amendment must be agreed to by the House.

A motion to strike out and insert if negatived does not prevent a simple motion to insert, or one to strike out.

When it is proposed to amend by inserting a paragraph or section, such paragraph or section if unsatisfactory should be perfected by amendment before the vote is taken thereon.

Sec. 498. When an amendment has been agreed to it can not be amended or stricken out until a reconsideration of the former action of the House has been voted, and the amendment again brought before the House. This does not apply to amendments reported by committee.

Division of the Question

Sec. 499. A motion to strike out and insert is not divisible. A motion to amend by inserting or adding is divisible if it contains more than one substantive proposition.

A question may be divided if it contains more than one substantive proposition, such division is usually made by the Speaker upon demand of a member.

A question may be divided into several parts provided each division comprehends a question so distinct that one being taken away the remainder may stand entire for the decision of the House; in other words, each division must contain a substantive proposition.

A motion to lay a pending bill or resolution with pending amendments on the table is not divisible.

A division of the question may not be demanded on a vote on the suspension of the rules.

The vote on engrossment and third reading of a bill may not be divided.

A demand for a division of the question is not in order

after the yeas and nays have been ordered. After a question has been put by the chair it is too late to demand a division.

Motions

Sec. 500. No member of right can offer a motion or present a question or other business for the consideration of the House unless he first obtain recognition from the presiding officer.

No motion is in possession of the House and under consideration until the question is put by the chair.

Principal or Main Question

Sec. 501. Is made to bring a particular subject before the body for consideration. Motions of this kind are not in order when any other main question is pending; unless provided otherwise by the rules. They do not have precedence over other motions; they yield to privileged, subsidiary and incidental motions. They are usually debatable and may have all subsidiary motions applied to them.

Renewal of Motions

Sec. 502. It is a rule introduced in order to avoid contradictory decisions and to prevent surprise and to afford opportunity for determining questions as they arise, that no motion shall be made or question proposed, which is substantially the same with one on which the judgment of the House has already been expressed during the session or which is still pending in the House or before committee.

Sec. 503. If the motion proposed is the same in substance with that already determined, no mere alteration of the language will be sufficient to evade this rule. The rule may be evaded by framing the new motion, with such difference as to form and matter as to be beyond the restriction while the purpose in view is susceptible of being effected under it. But the rule cannot be evaded by renewing, in the form of an amendment, a motion which has already been disposed of.

Sec. 504. But though a motion is irregular which proposes a question already decided, it is nevertheless competent for the House to rescind a former vote. This is allowed in order that the discretion of the House may not be too strictly confined and its votes subject to irrevocable error.

Rescinding Vote

Sec. 505. In point of form the rescinding of a vote is the matter of a new question; the form being to read the resolution of the House, and then to move that it be rescinded; and thus, the same question which has been already resolved is not again offered, although its effect is annulled.

To Discharge Committee

Sec. 506. The rule of Congress upon this question is found in H. R. No. 27 as follows: "Any member may present to the clerk a motion in writing to discharge a committee from further consideration of any bill or resolution which may have been referred to such committee fifteen days prior thereto. All such motions shall be entered upon a calendar to be known as the calendar of motions to discharge committees. After the unanimous consent calendar shall have been called on any Monday, and motion to suspend the rules has been disposed of, it shall be in order to call up any such motions which shall have been entered at least seven days prior thereto. Such motions shall require for adoption an affirmative vote of a majority of the membership of the House.

Unanimous Consent Agreement for a Future Day

Sec. 507. The following unanimous consent agreement will show the practice in the United States Congress.

Form: It is agreed by unanimous consent that on Wednesday, March 10, 1920, the Senate will proceed to vote, without further debate, upon any amendment that may be pending, any amendment that may be offered, and upon the bill No. — through the regular parliamentary

stages to its final disposition, and after the hour of 2:30 p. m. of said day, no senator shall speak more than once or longer than ten minutes upon the bill or amendment offered thereto.

Question of Consideration

Sec. 508. The question of consideration is as old as parliamentary law itself, having been used in the earliest sessions of the English Parliament. It is used in Congress but is never put, except when raised by a member from the floor. In examining the old records of the Ohio Assembly we have not found one instance where the question of consideration was raised, but this does not argue that it should not be brought into frequent use. Its legitimate use no doubt would save time by preventing a waste of time upon unimportant matters. It is in fact the very first effective tool the Houses have to use to protect themselves against business they do not wish to consider.

Sec. 509. The question of consideration may be raised against any main motion or other business presented for the consideration of either House which it does not desire to consider. When a motion or other proposition is presented any member may raise the question of consideration. When the question of consideration is raised, it is the duty of the chair to put the question at once, thus: **"Will the House now consider the question?"** (naming it.)

Sec. 510. The question of consideration cannot be amended or debated and requires a two-third negative vote of those voting, a quorum being present, to prevent consideration.

Sec. 511. The chair does not put the question of consideration unless it is raised by a member from the floor. The usual manner of raising the question of consideration is thus: As soon as a motion or other proposition is presented that it is not desirable to consider, a member should arise and say: "Mr. Speaker, or Mr. President (as the case may be) on that question I raise the question of consideration." Thereupon the chair puts the question "Will

the House now consider (naming the question)" and the House divides on the question without debate. If decided in the negative, that is not to consider it, then the subject remains before the House and stands the same as if the question had never been presented, if decided in the affirmative, the consideration of the subject then proceeds. The question of consideration is only applied to the main questions.

American Parliamentary Practice

Sec. 512. The question of consideration may be demanded against a question of highest privilege such as the right of a member to his seat.

Sec. 513. Although the House vote not to consider a matter of privilege, it may be called up again on the same legislative day, and the question of consideration may be demanded again.

Sec. 514. A member may demand the question of consideration although the member in charge of the bill may claim the floor for debate, but the previous question may not be demanded in a similar way. The intervention of an adjournment does not destroy an existing right to raise the question of consideration. But when the question of consideration is undisposed of at the adjournment, it does not recur as unfinished business on a succeeding day.

Sec. 515. A point of order, if sustained, might prevent the consideration of a bill, and should be passed on before the question of consideration is put.

Sec. 516. Although a bill may come up by reason of being specified in a special order, yet the question of consideration may be raised against it.

Sec. 517. The question of consideration may not be demanded against a class of business in order under a special order or a rule, but it may be demanded against each bill individually as it is brought up.

Sec. 518. Where a special order provides that immediately upon its adoption a certain bill shall be considered, the question of consideration may not be raised against that bill.

Sec. 519. The question of consideration may not be demanded against a bill returned with objections of the President.

Sec. 520. The question of consideration may not be raised on a motion relating to the order of business.

Question of Consideration — When Put

Sec. 521. The chair never puts the question of consideration, except it be raised by a member from the floor. The usual manner of raising the question of consideration is when a motion or other proposition is submitted to the House, for a member to rise and say, "Mr. Speaker (or President, as the case may be), on that question I raise the question of consideration." Thereupon the Speaker states the question, "Will the House now consider the question?" and the House, immediately **without debate**, votes upon the question of consideration, if decided in the negative, the motion or other proposition is removed from before the House, and stands as if it had never been offered, if decided in the affirmative, the House then proceeds to its consideration the same as if the question of consideration had not been raised.

The two parliamentary instruments nearest to those which can be used to prevent the consideration of undesirable subjects, are first, to make a point of order, and second, a cry or demand for the orders of the day. The latter is the practice now in the English Parliament.

Double Motions

Sec. 522. Ordinarily in parliamentary practice double motions are not admitted. In the practice of the Ohio Assembly they have been admitted without question, that is motions covering more than one proposition, but in Congress, a member is permitted to make two separate and distinct motions at once. e. g. The best example of this is found in the motion to reconsider and lay on the table. A member is permitted to move to reconsider a vote, and at the same time move to lay his motion to reconsider on the table:

Effect of Laying Motion to Reconsider on Table

American Parliamentary Practice

The effect of this procedure is such, that if the motion to reconsider goes to the table it takes the bill with it. A motion to reconsider the vote laying on the table is never in order, therefore the subject cannot again be brought before the House. The motion to take from the table has no place in Congressional procedure and can only be made under suspension of rules and requires a two-thirds vote.

Equivalent Questions

Sec. 523. "Questions are said to be equivalent, when the negative of one amounts to the affirmative of the other, and leaves no alternative. In amendments which furnish the most frequent examples of equivalent questions, the negative of striking out certain words, amounts to the affirmative of agreeing to the same words. So on a motion to agree or disagree in the affirmative on either of these motions, inasmuch as either question may be amended, is exactly the equivalent of a negative of the other branch. It has been held in Congress that a vote in the affirmative is equivalent to an agreement to the amendment and that a vote in the negative of the same question is equivalent to a vote to insist on the disagreement. So if a motion is made to disagree or reject an amendment reported by the committee of the whole house, and this motion passes in the negative, the decision is equivalent to an agreement to the amendment. So if a question on passing a bill to its next regular stage is decided in the negative, such a vote is equivalent to a rejection, and should be so entered by the clerk, the same effect is produced when the enacting clause or the whole bill is struck out; and on the other hand, if on the question of rejection a bill is retained this vote may be considered equivalent to a vote passing the bill to its next stage."—Cushing. For further information see: Jefferson's Manual. Sec. XXXVIII. H. J. 21st Cong. 1st Session, pp. 292-439-610.

Motion to Discharge Committee

Sec. 524. The motion to discharge a committee from further consideration of a bill or other paper is resorted to when a member feels convinced the committee to which the bill was referred is not giving such bill or other paper, as the case may be, proper consideration, or that he has reason to believe that it is the intention of the committee to hold the bill and thus prevent the Assembly as a whole from passing judgment on the merits of the bill. Under such conditions, his only recourse is to bring the matter to the attention of the House by a motion to discharge the committee from further consideration. The member need not state his reason for making the motion unless he desires so to do. This motion to discharge a committee from the consideration of legislative matters has no privileged status, and consequently may not intrude upon the regular order of business.

Sec. 525. There is, however, an exception or two, to this rule, the motion to discharge a committee from the consideration of a vetoed bill presents a question of constitutional privilege, and is in order at any time. Also the discharge of a committee from consideration of a contested election case. A motion to discharge a committee is not in order, unless the committee to which it was referred has had an opportunity to consider it, unless such reference was made by mistake. The motion to discharge is in order even though the committee has completed its consideration of the bill, if it has not been reported.

Sec. 526. The motion to discharge a committee from further consideration is in order at any time when no other business is pending. It is an incidental main motion and the right to make such motion is dependent upon recognition by the Speaker of a member for that purpose. This motion is not debatable. If it is necessary to suspend the rules to make the motion to discharge a committee; the motion to suspend the rules may include in its provisions

the motion to discharge and the consideration and final passage of the bill.

Form of Motion Practiced in Congress

Sec. 527. "I move to suspend the rules for the purpose of discharging the committee on taxation from further consideration of S. B. No. 12 (here state title) and pass the bill." The effect of this motion if carried, is to suspend all rules in the way of its immediate consideration and passage, involving as it does the suspension of the rules of the Assembly. It requires a two-thirds vote of those present or majority of those elected. A committee may be discharged from consideration of a bill in this manner: "I ask unanimous consent to consider at this time H. B. No. 156, now in the judiciary committee." If the motion prevails the committee is discharged and the bill is before the House for consideration. In all cases where a committee is discharged, **it is the duty of the chairman, forthwith, without further instructions, to deliver the bill to the clerk of the body.**

Motion to Informally Pass

Sec. 529. The purpose of this motion is to temporarily prevent the consideration of a question taken up on the calendar.

This motion should be made when the clerk announces the number of the bill and before it is read the third time, or it may be made before such announcement by the clerk. It is not in order after third reading, for then the bill is off the calendar, and of course could not be informally passed on the calendar when it has been taken off and is being considered by the House. When the bill has been read and is being considered the proper motion to make is to defer consideration until tomorrow and the bill retain its place on the calendar, or to lay aside the bill until tomorrow or a future time.

Sec. 530. "I move that (giving number of bill) be informally passed on the calendar." It is not necessary to say retain its place on the calendar, this is implied in the motion, if agreed to, the bill will retain its place on the calendar.

Main Motions

Sec. 531. Main motions are such as are made to bring before the body for its consideration any particular subject. Main motions are divided into two kinds, original main and incidental main. Original main motions are those which introduce some entirely new subject. Incidental main motions are those which are incidental to, or relate to the business of the Assembly, or its past or future action. All main motions, unless otherwise provided, are debatable and subject to amendment. They yield to all privileged, incidental and subsidiary motions. If a main motion is laid on the table, it carries with it, all pending subsidiary motions. If referred to committee, it carries only pending amendments. Unless otherwise specifically provided, they require a majority vote for their adoption, that is, a majority of those voting. An objection to the consideration of a main motion is sustained by a two-thirds vote will prevent the motion from being considered by the body.

Pending Motions

Sec. 532. This form of procedure has been employed frequently in recent years in the House and has many advantages. It is particularly helpful in motions to reconsider, but may be used in reference to other motions. A member desires to make a motion but is not ready to have the motion put to the House, he therefore requests that the motion remain pending and be printed in the journal to be called up at the time designated by the mover in his motion. This motion is carried on the calendar until disposed of. It differs from the notice of motion in this respect, that if the hour for bringing up motions is not fixed, after a reasonable time, say one day, it would be proper for any member to call up the motion.

Notice of Motion

Sec. 533. The practice of giving notice of motion has grown up in the assembly in recent years, and if properly used is a very commendable practice. A member desires to bring a question before the House for consideration, but prefers that the question be taken up at a future time. Instead of making the motion and postponing its consideration to another day when he desires it to be considered, he serves notice on the House that on a certain day he will make a motion, naming the substance of the motion to be made and the hour for its consideration.

Sec. 534. This notice of intended motion should be carried on the calendar for the next day and until disposed of. The fact that the member has stated the substance of his motion does not prevent any other member from making a similar motion effecting the same result, except that such motion would be a parliamentary discourtesy. But no member should be permitted to make the same identical motion previous to the time specified by the member for making his motion given in his notice. To permit an identical motion would be obviously unfair and thwart the very purpose for which notice was given. The protection of the member making the notice should be insisted upon.

The following illustration will serve as a guide to those desiring to give notice of motion.

Sec. 535. Mr. Speaker: I desire to serve notice on the House that on tomorrow or other day (day named) under the proper order of business or when such motion will be in order, I will make the following motion: "That the committee on judiciary be discharged from further consideration of H. B. No. 10." Having given notice the motion requires only a majority vote of those present. If notice is not given two-thirds of those voting or a majority of the membership.

Demands are not Motions

Sec. 536. Members are required to rise to make motions; a call for adjournment, for the orders of the day,

the yeas and nays or for the question by gentlemen from their seats, is not a motion or demand. Such calls themselves are breaches of order and should not be noticed by a member who is speaking or by the Speaker. They should, however, be regarded as an expression of the impatience of the House.

Subsidiary Motions — Their Use

Sec. 537. Subsidiary motions are those which may be made to dispose of the main question, to-wit:

Motions to Suppress Action

Point of order.
Raise question of consideration.
Withdrawal of motions.

Motions to Defer Action

To lay on the table.
To postpone to a future time certain.

Motions to Expedite Business

To suspend rules.
To take up out of order.
The previous question.
To limit debate.

Motions When Question is Unsatisfactory

To divide the question.
To commit, refer or recommit.

To Avoid a Direct Vote

To postpone indefinitely.
To lay on the table.

When Reversal of Action is Desired

Reconsideration.
Rescind.

Repetition of Motions

American Parliamentary Practice

Sec. 538. The rule specifies that the motions to postpone and refer shall not be repeated on the same day at the same stage of the question. (V, 5301, 5591).

Under the practice, also, a motion to adjourn may not be repeated only after intervening business (V, 5373) such as debate (V, 5374) the order of the yeas and nays (V, 5376, 5377) decision of the chair on a question (V, 5378) or reception of a message (V, 5375). The motion to lay on the table may also be repeated after intervening business (V, 5398-5400) but the ordering of the previous question (V, 5709) a call of the House (V, 5401) or decision of a question of order are held not to be such intervening business, it being essential that the pending matter be carried to a new stage in order to permit a repetition of the motion (V, 5709).

When the Question of No Quorum is Raised

Sec. 539. If any member raises the question that business is proceeding without the presence of a quorum, it is within the competence of the chair to decide that a quorum is present and he should not allow the House to be interrupted by any dilatory proceeding. He assumes the responsibility for the purpose of declaring that a quorum is present, because no business can proceed without a quorum. Even a gentleman speaking is entitled to have a quorum present. If the point of order be raised, a member addressing the chair may be taken off the floor by any member raising the point of order that no quorum is present.

CHAPTER X

PRIVILEGED MOTIONS

Sec. 540. The general parliamentary law is that the question first moved is the question first put, there are however some exceptions to the rule, and these exceptions are known as privileged motions and are made such by the rules, they are inclined to, and arise out of other questions; they take place of and are decided before the main question; they are of different rank among themselves and have freedom one over another. The rules of both Houses established a class of privileged questions and give precedence to one privileged over another.

Sec. 541. It will be noted that the highest rank and privilege is given to the motion to adjourn. But it does not follow that aside from the question of adjournment there is no gradation as to priority among privileged questions established by the rules. Parliamentary law and usage gives them priority, one over another. Thus the question of tabling though the last moved, supersedes the question of amendment, postponement or commitment.

Sec. 542. Again amendment and commitment competing (pending) the latter question though last moved is put first. It will be perceived that with the exception of the motion to adjourn, the entire class of privileged questions in both Houses have reference to the original or primary question; usually called the main question, that is their object and effect is to amend, postpone, commit, table or precipitate such main question. The point, however, frequently arises whether one privileged motion can be moved on another; that is whether it is admissible—a privileged question being before the House, to move another privileged question having reference to it and not the main question.

Sec. 543. For example, a motion is made to amend, commit, or postpone the main question — is it admissible to lay on the table such motion to amend, commit or postpone, instead of the main question. Parliamentary law forbids it, not only because of the absurdity of thus separating the incidental from the main motion, but because to lay on the table the motion to commit, amend or postpone is indirectly to reject it, and the same result can be attained much better by a direct vote on the question of amending, committing or postponing.

Sec. 544. The practice, however, in the Assembly permits these motions, not because they are right, but rather because of a misunderstanding as to their proper use. To avoid embarrassment and complication which inevitably must result from the piling of one privileged question on another, it is not admissible to move to amend, table, postpone or commit the question of adjournment, or the previous question, or for laying on the table or for a call of the House.

Sec. 545. A motion to postpone the main question may be amended as to time, in other words, one day instead of another from a definite to an indefinite time. The motion to commit the main question, may be amended as to committee, or by adding instructions.

The motions named in the foregoing rules are known in parliamentary law as subsidiary motions and their uses are set forth as follows: "They are such as are applied to other motions for the purpose of appropriately disposing of them. By means of them the original motion may be modified, or action postponed, or it may be referred to a committee to investigate and report." (Roberts).

Special Privileged Motions and Resolutions

Sec. 546. Sometimes it is necessary and highly important to recall a bill or other paper, that has gone out of the possession of the House, therefore, it is the constant practice of Congress to treat all motions or resolutions recalling bills or other papers from any source as highly

privileged, and such motions and resolutions are admissible at any time under any order of business and should be acted upon without delay. Such motions and resolutions are debatable only to the extent of the advisability of the recall but cannot enter into the merits of the papers to be recalled. It is rare indeed for any branch of the legislature to refuse any other branch the return of papers they have once acted upon. To refuse is considered a parliamentary discourtesy and tends to destroy the working harmony between the different branches of the legislative department. No such refusal should be made except upon good reasons communicated by message to the recalling body.

The Motion to Adjourn

American Parliamentary Practice

Sec. 547. The motion to adjourn not only has the highest precedence when a question is under debate, but with certain restrictions, it has the highest under all other conditions. Even questions of privilege and the motion to reconsider yield to it. (III, 2521, V, 5605). A conference report may defer it only until the report is before the House (IV, 6451-6453). The motion to adjourn may be made after the yeas and nays are ordered and before the roll call has begun (V, 5366) and before the reading of the journal (IV, 2757). But a motion to adjourn may not interrupt a member who has the floor (V, 5367-5370) or a call of the yeas and nays or the actual act of voting by other means (V, 5360) or be made after the House has voted to go into the committee of the whole (IV, 4728, V, 5368) and when no question is under debate it may not displace a motion to fix a day to which the House shall adjourn (V, 5281).

Sec. 548. When the House has fixed the hour of daily meeting, the motion to adjourn may not be amended (V, 5754) as by specifying a particular day (V, 5360) or hour (V, 5364) or by stating the purposes of adjournment (V, 5371, 5372) but when the hour of daily meeting is not

fixed, the motion to adjourn may fix it (V, 5362, 5363). The motion to adjourn is not debatable (V, 5359) and is not in order in committee of the whole (1V, 4716). After the motion is made neither another motion nor an appeal may intervene before the taking of the vote (V, 5361). Clark.

NOTE: The motion to fix the day to which the House shall adjourn, and the motion to recess have been dropped from the list of privileged questions in the National House, because of the facility with which they were used in obstructive tactics.

Motion to Adjourn — Nature and Use of

Sec. 549. (Both the rules of the House and Senate in Ohio give to the motion to adjourn the place of highest privilege). The motion to adjourn to a time certain is both amendable and debatable as to the time to which adjournment shall be taken. The motion to fix the time to which adjournment shall be taken does not take precedence of the simple motion to adjourn.

Sec. 550. A motion to adjourn is in no instance debatable; but it is always in order when a question is under debate. While the presentation of a conference report has precedence of the motion to adjourn, yet the motion to adjourn may be put and decided pending the consideration of the report. A motion to adjourn is in order although if carried into effect it would prevent the consideration of the Governor's veto message for that session.

Sec. 551. The motion to adjourn may be made after a ye and nay vote has been ordered, but before the call has begun. A motion to adjourn is not in order, unless the mover was recognized by the Chair nor should the Chair put the question on any motion unless he has recognized the mover.

When Not In Order

Sec. 552. A motion to adjourn may not be received after another question is actually put, and while the House is actually voting; it may be made during the verification of

a vote, and while the assembly is dividing; a motion to adjourn may not take a member from the floor.

Repetition of Motion to Adjourn

Sec. 553. There must be intervening business before a motion to adjourn may be repeated. It may be repeated after debate, although no question may have been put or decided in the meantime. Ordering the yeas and nays is such intervening business as to justify the repetition of the motion to adjourn; a decision of the chair on a question of order; the reception of a message from the other branch; an announcement by a member is sufficient intervening business.

Effect of Adjournment

Sec. 554. The effect of an adjournment is merely to postpone to another day the question under consideration, if there were one, and after the reading of the journal, the unfinished business of the preceding day would be in order as if no adjournment had taken place. This, of course, is true in the absence of a special rule to the contrary. (Reed. (This rule of Speaker Reed's is in harmony with the rules and practice of both Houses of the Ohio Assembly).

Previous Question

Sec. 555. Under our rules the practice has grown up, despite the plain provision of the rules, to permit the ordering of the previous question on any pending question or amendment, thus closing debate and bringing the House to a vote on the immediately pending question.

Sec. 556. This practice has been so general it may be said to be the established practice of both Houses. This unwritten rule may be clearly expressed as follows: **That the previous question may be moved on any amendment or amendment to an amendment of any bill, resolution or motion pending before the House,** that when so expressly moved and seconded by a majority of the House, its effect, if sustained by a majority shall be simply

to terminate debate on the amendment or the amendment to the amendment to which it is applied and to cause the question thereon to be immediately put.

Sec. 557. Provided, that if the previous question on the bill or resolution be moved at the same time and sustained by a majority, it shall have priority. (The need in the Assembly of a cloture rule, or in other words, a means to close debate, other than the previous question, has brought about this change of practice.

Sec. 558. To facilitate business this new practice should be continued or the Assembly should provide a definite rule for closing debate in addition to the previous question which could be applied directly to any question. As the matter now stands it is merely the practice of the two Houses and may of course be changed at the caprice of the presiding officers by ruling strictly in conformity with the rules.

(A rule similar to the foregoing should be adopted, making the practice law.)

Sec. 559. Form of motion when it is intended to effect the pending motion or amendments and not the bill. **"I move the previous question on the pending amendments or motion,"** or if only one amendment or motion to definitely specify which one. Where it is intended to bring a vote on all similar matters including the bill, the motion should be: **"I move the previous question on all amendments and the bill to its passage or rejection."** If this motion is sustained, it immediately closes debate and prevents the further offering of amendments and forces a vote, first on the pending amendments in the inverse order of their introduction and then on the bill or resolution, as the case may be.

The Motion to Postpone

American Parliamentary Law

Sec. 560. As indicated in the rule, the motions to postpone are two in number and distinct: One to postpone to a day certain; the other to postpone indefinitely.

Each of these motions must apply to the whole and not a part of the pending proposition. (V, 5306). Neither may be entertained after the previous question has been ordered (V, 5319, 5321) or be applied to a special order providing for the consideration of a class of bills (IV, 3177, 3182). The motion is not used in committee of the whole, but a motion that a bill be reported with the recommendation that it be indefinitely postponed is in order in that committee (IV, 4675). A motion to postpone to a day certain may not specify the hour (V, 5307. It is debatable within narrow limits only (V, 5309, 5310) the merits of the bill to which it is applied not being within those limits (5310, 5311). It may not be applied to the motion to refer or commit, or to suspend and it is not applicable to any other secondary or privileged motions enumerated in the rule and to motions relating to the order of business. (Clark).

Motion to Postpone

American Parliamentary Law

Sec. 560-a. The motion to postpone may specify the day but not the hour of the day.

The motion to postpone must include the whole of a pending resolution and may not apply to a portion only.

The motion to postpone to a day certain is debatable within very narrow limits only.

The motion to postpone indefinitely may not be applied to the motion to refer.

The motion to postpone opens to debate all the merits of the proposition.

It is in order to move to postpone indefinitely the further execution of an order.

After the previous question is ordered on a bill or motion, a motion to postpone the bill is not in order.

The motion to postpone indefinitely may not be applied to the motion to suspend the rules.

It is not in order to postpone a special order providing for the consideration of a class of bills.

Where a bill comes before the House by the terms of a special order merely assigning the day for its consideration it may be postponed by a majority vote.

The motion to postpone is not used in the committee of the whole but a motion that the bill be reported with the recommendation that it be postponed is in order in the committee.

The Motion to Refer or Commit

AMERICAN PARLIAMENTARY PRACTICE

Sec. 561. There are in the rules of the National House two motions to refer. The ordinary motion provided in the rule and the special motion provided by the rule for the previous question (Rule VXI, Sec. 1). The motion to refer is sometimes made by using the words commit, recommit, but this change is one of form merely and the three motions may not be used in direct form, in committee of whole (1V, 472). It may be made after the engrossment and third reading of a bill, even though the previous question may have been ordered (V, 5562, 5563). The simple motion to refer is debatable within very narrow limits, but the merits of the proposition which it is proposed to refer may not be brought into the debate (V, 5564, 5568.)

Sec. 561-a. The motion to refer with instructions is debatable (V, 5561. The motion may be amended as by adding instructions (V, 5521) but it is not in order to propose as instructions anything that might not be proposed directly as an amendment from the floor, instructions must be germane to the subject. Amendments in the nature of a substitute are in order. Motion to commit with instructions to eliminate amendment adopted by the House is not in order. It is the practice of Congress to recommit a bill with instructions to report forthwith, in which case the chairman reports without waiting action by the committee. A committee must confine itself to the instructions, if there be any.

Lay on Table

American Parliamentary Practice

Sec. 562. Under the general English parliamentary law the motion to lay on the table is used merely to put aside a motion which may be called up at the pleasure of the House.

Sec. 563. Without any express rule on the subject, but by long practice Congress has given this motion a use entirely different from the above. It is now the motion by which the House puts away a bill, motion, appeal or other matter finally. A bill or other matter laid on the table by vote of the House is practically passed on adversely. This practice has undoubtedly arisen from the fact that the rules governing the order of business, gives a privileged status to the motion to **lay on the table, but not to the motion to take from the table**. Hence, if a motion to take from the table, be made, a single member by objecting that the business should proceed in regular order, prevents the entertaining of the motion, and against such objection the motion might be entertained only on suspension of the rules and by a two-thirds vote.

Sec. 564. The motion to lay on the table is in order before the member entitled to prior recognition for debate has begun to make his remarks. Although a proposition may be privileged for consideration under the rules, yet a motion to lay it on the table is in order, such action being one form of consideration.

The motion to lay on the table may be repeated after intervening business.

The motion to lay on the table may not be applied to a motion relating to the order of business.

It is in order to lay on the table a motion to discharge a committee, but it is not in order to lay on the table a motion to suspend the rules.

The motion to lay on the table is not in order if the previous question has been demanded and the yeas and

nays ordered on the demand; neither can it be applied to the demand for the previous question.

American Parliamentary Practice

Sec. 654-a. The motion to lay on the table is used in the National House for a final adverse disposition of a question without debate. (V. 5389). But a question of privilege laid on the table may be taken therefrom on motion made and agreed to by the House. (V, 5438). The motion to lay on the table has the precedence given it by the rule, but it may not be made after the previous question is ordered, (V, 5415-5422) or even after yeas and nays have been ordered on the demand for the previous question (V, 5408, 5409). **When a bill is laid on the table pending motions connected therewith go to the table also** (V, 5423) and this rule holds good as to a House bill with Senate amendments (V, 5424). But there are exceptions to this rule, viz.: the journal does not accompany a proposed amendment to the table (V, 5435, 5436), the original question does not accompany an appeal (V, 5434). A resolution does not accompany another resolution with which it is connected, or a preamble (V, 5428, 5430).

Sec. 564-b. A motion to lay on the table a motion to reconsider a vote by which an amendment to a resolution had been agreed to would not carry the resolution to the table. (Ruling by Speaker Clark, 63rd Congress). The motion to lay on the table may not be amended (V, 5754), or applied to the motions for the previous question (V, 5410, 5411) to suspend the rules (V, 5405) or to commit after the previous question is ordered (V, 5412-5414) or to any motion relating to the order of business (V, 5503-5504) except the motion to discharge a committee (V, 5407); the motion to lay on the table should not be applied to ordinary motions to refer. The general trend of rulings in the National House indicate that the secondary or privileged motions for disposal of a matter should not be laid on the table.

(Hinds). This motion is not in order in the committee of the whole (IV, 4717, 4720).

Sec. 565. A proposed amendment to a bill being laid on the table the bill goes there also. If a bill be laid on the table, pending amendments and motions connected therewith go to the table also. A motion to lay a particular section of a bill on the table, if decided in the affirmative would take the entire bill with it. A motion to lay on the table an appeal from the decision of the chair, if decided in the affirmative, does not carry to the table the original matter upon which the question of order has arisen. A proposed amendment to the journal, being laid on the table, does not carry the journal with it.

A proposition involving a question of privilege, if laid on the table, may be taken up at any time by a majority vote of the House.

Motion to Commit

American Parliamentary Practice

Sec. 566. The ordinary motion to commit may be amended, as by adding instructions, unless such amendment is prevented by moving the previous question.

The motions to refer, commit and recommit are practically the same. When a bill is recommitted with instructions relating only to a certain portion of it the committee may not review other portions. A bill may be recommitted with instructions to divide and report two bills instead of one.

It is not in order to indirectly, by a motion to commit, with instructions, what may not be done directly by amendment. A bill may be committed with instructions that it be reported "forthwith" and in such case the chairman of the committee to which it is committed makes a report at once without awaiting action of the committee. In making the foregoing ruling, Speaker Reed made the following observation:

Sec. 567. **"The chairman is the mouthpiece of the committee, but the committee itself is the agent of the**

House, and the House has a perfect right to order the committee to do its will in whatever fashion it sees fit."

On a motion to commit with instructions that the instructions may not authorize a **committee to report at any time**, as such authorization would constitute a **change of the rules**.

It is in order to refer a matter already under consideration to a committee to report a bill "forthwith" and such bill being reported is in order for immediate consideration.

The question of consideration being pending, a motion to refer is not in order.

It is not in order to refer a pending amendment without the bill itself.

Sec. 568. The motion to commit has precedence of the motion to amend. It is not in order to refer another motion, unless such motion referred takes something with it. There are many motions that can be made, that can be referred because they take something substantial along with them to be deliberated upon and decided by the committee. When a bill is recommitted to the committee which reported it the whole question is before the committee anew, as if it had not been before considered. If the House dispose of a report adversely, it is not in order to recommit it.

The simple motion to commit or refer is not debatable, except within very narrow limits, the merits of the proposition proposed to be referred may not be brought into the debate.

Suspension of Rules

American Parliamentary Law

Sec. 569. "When the rules are suspended to enable a matter to be considered, another motion to suspend the rules may not be made during that consideration." Speaker (White).

A motion to suspend the rules is not in order during consideration of a bill under a special order. Chairman (Adrian).

Under the practice of Congress it is possible by one motion, both to bring a matter before the House and

pass it under suspension of the rules, e. g., Mr. Washburn moved to suspend the rules and agree to a resolution providing a special order. Objection was made that the House had the right to vote first on suspension and then on the resolution. The Speaker overruled the point of order. **The House then suspended the rules and adopted the resolution with one vote.** (Hinds, sec. 6846).

Sec. 570. At another time a member moved that the rules be suspended and the House adopt a resolution. A query was made whether this motion would cut off debate. Speaker Blaine ruled: "The motion as framed by the gentleman proposes that the rules shall be suspended and the resolution adopted at one vote. It is in order for him to put the motion in that form, and the chair understands that to be the motion."

Sec. 571. **On one motion to suspend the rules a vote whereby a resolution had been passed was reconsidered, the resolution amended, and as amended passed. e. g. A member moved to reconsider, amend and repass a bill with one and the same vote.** Objection being raised, Speaker Reed ruled: "The gentleman can move to suspend the rules, reconsider the vote already taken, and pass the resolution with the amendment which has just been read." (Hinds, Sec. 6849).

Sec. 572. "A motion to suspend the rules may include in its provisions both the discharge of a committee from further consideration of a bill and the final passage of it."—Reed. The rules may be suspended by a single motion and vote so as to permit the House to vote first on a specified amendment to a bill and then on the bill itself. Ruling on this proposition, Speaker Kerr said: **"The very purpose of a suspension of the rules is to get rid of the rules and to let the House run as freely as it pleases. The motion is in order."**

Sec. 573. The motion to suspend the rules and adopt a resolution precludes the call for a division of the question. (Blaine, p. 595). The motion to postpone indefinitely

may not be applied to a motion to suspend the rules, and the motion to lay on the table cannot be applied to the motion to suspend. During the consideration of a motion to suspend the rule and pass a bill, it is not in order to move to commit the bill, or to demand a separate vote on amendments pending with the bill. (Sec. 6860). See Secs. 920-921-922-923-924.

Vote on Suspension of the Rules

Sec. 574. The rules of the Ohio House and Senate provide for the suspension of the rules by a two-thirds vote, but the constitutional rules cannot be suspended except by a three-fourths vote. In each instance, the vote is based on the number present. The motion to suspend the rules is an incidental motion. In the past practice of the Ohio General Assembly it has been admitted and is in order at the discretion of the presiding officer or upon his recognition, of a member to make a motion.

When the Purpose of Suspension is to effect the Pending Business

Sec. 575. In the National House the motion to suspend the rules is only in order on the first and third Mondays of each month. The motion to suspend the rule is not debatable. It cannot be amended, or laid on the table, or postponed indefinitely. "If the motion to suspend is made for the purpose of introducing new business and is decided in the affirmative, the same must be introduced in the ordinary manner and is then open like other papers of the same description to amendment, modification, discussion and rejection." (Cushing, Secs. 1488-89-90).

Sec. 576. "When a given subject is allowed to be introduced under a suspension of the rules for the purpose, and it is introduced accordingly, such suspension is an authority to do so, in the accustomed methods of proceeding, whatever may properly relate to that subject. Thus, if authority be given under a suspension of the rules to introduce a resolution on a particular sub-

ject, which is introduced and received accordingly, **it may not only be introduced, but it may be considered and finished.**" Cushing, Sec. 1490).

What Constitutes a House?

Sec. 577. The constitution of the state provides how the constitutional rules governing the assembly may be suspended as follows: **"Every bill shall be fully and distinctly read on three different days, unless in case of urgency three-fourths of the House in which it shall be pending, shall dispense with the rule."** Const. Art. II, Sec. 16. In nearly every session of the assembly the question arises, **What does three-fourths of House mean?** Does it mean of those present or does it mean those elected to each House? The speakers of the National House have been uniform in their rulings on this proposition. One of the more recent rulings in Congress on this subject is by Speaker Reed as follows: "The question is one that has been so often decided that it seems hardly necessary to dwell upon it." The provision of the constitution says: "Two-thirds of both Houses." What constitutes a House? A quorum of the membership, a majority, one-half and one more. That is all that is necessary to constitute a House, to do all the business that comes before the House. Among the business that comes before the House is the consideration of a bill which has been vetoed by the President and another is a proposed amendment to the constitution and the practice is uniform in both cases that if a quorum of the House is present the House is constituted and two-thirds of those voting are sufficient in order to accomplish the object."

Practically the same ruling was made in the Senate by Mr. Breckenridge and Mr. B. F. Wade. (Hinds, p. 1010, Vol. 5). This same question was ruled upon in the Ohio House in 1896, by Speaker pro tem Charles Bosler, of Dayton, and his decision was sustained by unanimous vote of the House.

Sec. 578. The decision follows in full with the proceeding thereon: "On April 22, 1896, Mr. Richardson, on leave introduced H. B. No. 967; after the bill was read the first time, Mr. Richardson moved the suspension of the constitutional rules to read the bill the second time. The yeas and nays were demanded, taken, and resulted — yeas 62, nays 16. The Speaker, Mr. Bosler in the chair, declared the motion carried. Mr. Landis raised the point of order that the motion was not agreed to for the reason the constitution, Art. 11, Sec. 16, provides for a three-fourths vote of all the members elected to the House. The Speaker ruled the point of order not well taken and said: "Upon this motion, the yeas and nays were taken, resulting yeas 62, nays 16. Art. 11, Section 16, reads: Every bill shall be fully and distinctly read on three different days, unless in case of urgency three-fourths of the House in which it shall be pending, shall dispense with this rule. The only question that can be raised as to the number of votes required to dispense with the rule is the exact meaning of the word House, as here applied."

Legislative bodies, almost without exception, adopt the rule that a majority of all the members elected to each House shall be a quorum to do business. The constitution of ~~our own~~ state in Art. 11, Sec. 6, provides that a majority of all the members elected to the House shall be a quorum to do business.

Undoubtedly, where a quorum is present, therefore, that quorum constitutes the House and where a certain percentage of votes is required to carry a question, that percentage is reckoned on the number of votes cast, a quorum being present, unless the special rule regulating that vote expressly provides otherwise.

Reference to the different sections of article 11 of the constitution proves that this was meant by the framers of that constitution to be the rule, and where they mean the percentage of votes to be counted upon all the members elected to the House, that is distinctly stated in the rules.

Art. 11, Sec. 9 of the constitution provides that no law

shall be passed by either House without the concurrence of all the members elected thereto.

Again, Art. 11, Sec. 3 provides that the House of Representatives shall have such power of impeachment, but a majority of all the members elected must concur therein.

Again, Art. 11, Sec. 29 provides that "No money shall be paid on any claim, the subject matter of which shall not have been provided for by preexisting law, unless such compensation or claim be allowed by two-thirds of all the members elected to each branch of the General Assembly.

This House of Representatives of the Seventy-second General Assembly comprises 112 members. A majority, therefore, is 57. Upon the motion under consideration 81 votes were cast. A quorum, therefore, was present, and that quorum constituted the House. Upon the motion 62 voted aye. Three-fourths therefore, voting aye, the motion undoubtedly was carried. (See House Journal, 1896, p. 940 and appendix, p. 51). **Should a member desire to make a motion out of order, he should first and before making motion get leave of House either by suspension of rules or unanimous consent to make such motion. In the daily order of business both House and Senate have provided a time and place for making motions, not provided for otherwise in the rules.**

Privileged Motions

RECONSIDERATION

American Parliamentary Law

Sec. 579. In the absence of a quorum it is not in order to move to reconsider a vote on which a quorum is required. (Hinds, Vol. V, Sec. 5606). In the absence of a quorum no business can be transacted except to adjourn, or a call of the House. On votes incident to a call of the House the motion to reconsider may be entertained and left pending, although a quorum may not be present. (Hinds, Vol. V, Sec. 507).

Sec. 580. A member may make the motion to reconsider at any time, without thereby abandoning a prior mo-

tion made by himself and pending; e. g., Mr. Hutcheson moved to recess, which was pending, when Mr. Hutcheson again moved to reconsider a vote previously taken. The Speaker put the question on recess, when a point of order was raised that Mr. Hutcheson in making the second motion had abandoned his first motion. Mr. Speaker Crisp ruled as above, giving as a reason that the motion to reconsider could be entered at any time pending any business, because it must be entered under the rules within a limited time.

Sec. 581. When the yeas and nays on a vote have not been ordered recorded in the journal, any member, irrespective of whether he voted with the majority or not, may make the motion to reconsider. Mr. Reed moved to reconsider a vote taken on the day previous. A point of order was made that he did not vote with the prevailing side and therefore could not make the motion. Speaker Crisp said: **"Where there is no record vote, a gentleman entering such motion is assumed to have voted with the prevailing side."** Ruling on a similar point of order, Speaker Boyd said: "If there had been a record vote, the point of order would have been good, but in no other case does the question arise as to whether the individual who moves to reconsider, voted with the majority or not."

The most carefully considered rulings of Congress have been that in case of a tie vote any member recorded on the prevailing side may move to reconsider.

Sec. 582. Speaker Winthrop said: "Any one who voted on the prevailing side has the right to move to reconsider, therefore, in the case of a tie vote, the motion must be made by a gentleman who had voted with the prevailing side, the negative."

A majority is necessary to reconsider a vote taken under the requirement that two-thirds shall be necessary to carry the question.

In 1866, a question of expelling a member was before the House, which required a two-thirds vote; the motion

was lost. Mr. Banks, who voted in the negative, moved reconsideration. Mr. Finck raised a point of order that Banks voted with the minority. Speaker Colfax said: "Some member must have the right to move a reconsideration. In this case he certainly could not move a reconsideration if he voted on the side which did not prevail, as he is evidently not in the constitutional majority on the question. The side which prevailed was the minority." (The question was put and carried by the ordinary majority vote.)

Sec. 583. A motion to reconsider the vote whereby the House has refused to adjourn is not in order; e. g., a motion to adjourn having been decided in the negative, a motion to reconsider was made, against which a point of order was raised that it could not be reconsidered. Speaker Carlile ruled: "The motion is not in order for the reason the motion to adjourn can be repeated again and again after other business has intervened."

A member who was absent when a vote was taken may not move to reconsider. Mr. Roberts moved to reconsider the vote whereby on the preceding day a decision of the Speaker had been overruled. Mr. Henry questioned the right of Mr. Roberts to make such motion on the ground that the records showed that he was absent on the day the vote was taken. Speaker John Davis decided that under the practice of the House, when a vote had been taken without a division, it was presumed that every member voted in the affirmative and therefore a motion to reconsider made by any member of the House had, in such case been entertained. On appeal this decision was rejected by the House. A motion to reconsider a vote by which the House refused to recess is not in order.

Sec. 584. It is not in order to reconsider a bill whereby the House refuses to consider a bill. It has been held in order to reconsider a vote laying an appeal on the table, also on the negative vote to lay on the table.

Sec. 585. The motion to reconsider may not be applied to the vote whereby the House has laid another mo-

tion on the table. On this question, Mr. Speaker White said: "Inasmuch as this is a motion to reconsider a vote which laid upon the table a motion to reconsider a subject already laid upon the table, and which, if entertained, must lead to inextricable confusion by piling motion upon motion to reconsider, it cannot be entertained."

Sec. 586. In this case a motion was made to reconsider the vote by which the bill was rejected and that motion was laid upon the table. What did the House do by laying that motion on the table? It determined that it would not reconsider that vote by which the bill was rejected. Mr. Jones moves to reconsider the vote by which the motion to reconsider was laid on the table. The chair states that the practice of this House had been uniform on this subject, and he thinks he may defy the gentleman from Tennessee, or any other member, to point to a single case differing from the course which the chair deems to be the correct one, which is, that a motion to lay on the table such a vote as that, is final, until it be in order to take that vote from the table.

Sec. 587. The motion to reconsider the negative vote on the motion to lay on the table is admitted and sometimes also on the affirmative vote, but the latter is thought to be a very doubtful practice. The motion to reconsider may not be applied to a vote on reconsideration of a bill returned with the objections of the President. A motion was made to reconsider the vote by which the House on reconsideration refused to pass a bill over the objections of the President. Speaker James, of Virginia, said: "Inasmuch as the vote now proposed to be reconsidered was taken in a manner expressly provided by the constitution, and having been thus taken, the decision must be considered final, and no motion to reconsider was in order."

From this decision, John Quincy Adams appealed, and the chair was sustained. In taking his appeal, Mr. Adams said: "The constitution provides that the bill should be reconsidered with the President's objections. Reconsideration implies deliberation, but the vote was taken under

the operation of the previous question which allowed no deliberation. Therefore, the provisions of the constitution had been violated." The Speaker replied: "How is it that a motion to reconsider is ever entertained? It is only by virtue of the rules of the House. This bill was passed some time ago, and it was no sooner passed than a motion was made to reconsider it. That motion was rejected, all power under the rules was then exhausted. Has it ever been heard of that a motion under the rules was then exhausted? Has it ever been heard of that a motion to reconsider, being once rejected, could be renewed? There is, however, a power higher than the rules, which provided that whenever a bill was returned by the President, with objections, it was the duty of the House to proceed to reconsider it. Without that provision the House could never have touched the bill again, and the requirement of the constitution having been complied with, there is no power in the House to touch the subject again." Mr. Dromgoole said: "Mr. Adams has confounded discussion with consideration."

Sec. 587-a. The motion to reconsider may not be applied to the vote on a suspension of the rules. The vote whereby the previous question has been ordered may be reconsidered once only. A motion to reconsider the vote on the third reading of a bill may be made and acted on after a motion for the previous question on the passage has been made, but such motion may not be debated.

The motion to reconsider and the motion to lay that motion on the table are admitted while the previous question is operating. Under the operation of the previous question an amendment to a bill was agreed to and a motion was immediately made to reconsider and lay on the table.

Sec. 588. A point of order was raised that the motion was not in order while the previous question was pending. Mr. Speaker Carlisle ruled: "Under the rules the motion to reconsider is one of very high privilege, and it is a motion which relates directly to the proposition pending

and on which a vote of the House has been taken. In other words, the vote of the House upon a proposition is not final and conclusive upon the House itself until there has been an opportunity to reconsider it, and therefore, the motion to reconsider and lay on the table is, in fact, a vote upon the amendment itself. The point of order is not well taken."

If a motion is made to reconsider the vote on a bill which has gone to the other branch, a motion to ask for a recall or return of the bill is a privileged motion. However, a later decision by Speaker Colfax relative to the return of a bill is as follows: "The pending of a motion to reconsider compels the House to ask for the return of the bill, unless a motion be made to lay the motion to reconsider on the table. The fact that the House had informed the Senate that it had agreed to a Senate amendment to a House bill does not prevent a motion to reconsider the vote on agreeing.

Sec. 589. While the motion to reconsider may be entertained at any time during the two days prescribed by the rule, even after the previous question is ordered, or when a question of highest privilege is pending, it may not be considered while another question is pending before the House. The motion to reconsider may be called up at any time when the class of business to which it relates is in order, but until it is called up the motion is not the regular order. A motion to reconsider, when once entered, may remain pending indefinitely.

Sec. 590. A motion to reconsider a vote on a proposition having once been agreed to, and the said vote again having been taken, a second motion to reconsider may not be made, unless the nature of the proposition has been changed by amendments.

Sec. 591. "The motion to reconsider is not debatable, if the motion proposed to be reconsidered was not debatable." — Speaker Randall.

When the vote whereby an amendment has been agreed to is reconsidered, the amendment becomes simply a pend-

ing amendment. In the practice of the House, a bill is not considered passed, or an amendment agreed to, if a motion to reconsider is pending, the effect of the motion to reconsider being to suspend the original proposition.

Sec. 591-a. If a bill, before disposal of a motion to reconsider the vote on its passage, should be enrolled, signed and approved by the President, its validity as a law probably could not be questioned. Commenting on this last proposition, Mr. Speaker Banks, agreeing with speaker Orr, said: "The effect of the pending of a motion to reconsider, according to universal usage, is to suspend the original proposition."

Sec. 591-b. When, however, a bill has, pending a motion to reconsider, and before that motion is acted on, been presented to the President and receives his approval, the validity of the act, it would seem, could not be questioned on account of the pendency of such motion. The signing of the enrolled bill by the Speaker and President being complete and unimpeachable evidence of its passage. In the Twenty-sixth Congress, Mr. Speaker Hunter refused to sign an enrolled bill until motion to reconsider was disposed of. (Hinds, Vol. V, chap. XXXIII).

Sec. 592. Speaker McKinnon of the Ohio House, in 1902, refused to sign a Senate bill because a motion to reconsider had been made and carried, and his act was later upheld by the Supreme Court of Ohio, however, after taking counsel with the attorney general who informed him, that unless the House took further action the law would be invalidated, he signed the bill.

History of the Case

Sec. 593. In 1902, Senator Frank Archer, of Belmont, acting President of the Senate, introduced into that body, S. B. No. 348, being a proposed amendment to Sec. 6711 of the Revised Statutes, relative to the printing of records filed in the supreme court. The bill passed the Senate and the House under suspension of the rules, on Saturday, May 17th; the following Monday, Mr. Fraser,

of Lucas, moved to reconsider the vote by which S. B. No. 348 was passed; the motion was agreed to. Then Mr. Andrew Comings, of Lorain, moved that a message be sent to the Senate requesting the return of the bill. It seems from the record that the Senate refused to return the bill to the House, and on the same day, it was reported from the enrollment committee. No further action was taken by the House, except the signing of same. In other words, after the reconsideration of its action the House did not pass the bill again. The amended law was brought to the attention of the court in the case of *Beyer et al v. Burress*, Sept. 30, 1902. After examining the legislative records the court declared the law invalid. I have been unable to find the decision of the court in this case, but from Page & Adams Annotated Code, we take this notation:

"It was reconsidered in the House and remained on the calendar until the close of the session. In view of this fact, the supreme court held that it never became a law." (See notations under new sectional number 12254).

Sec. 594. In other words, the court concluded that the assembly had not completed its action on the bill. The assembly will be more interested in the parliamentary procedure on this bill, perhaps, than in the opinion of the court. In the first instance, Speaker McKinnon erred in putting the question on reconsideration, for the reason the bill was not in possession of the House and it is an unalterable principle of parliamentary law, that no action can be taken unless the body has possession of the papers. The motion of Mr. Frazer should have been allowed to pend until the return of the bill, unless this means was employed for the purpose of defeating the act. The fact that the House reconsidered its action in passing the bill in effect rescinded its action in passing the bill and left the bill passed only by one branch of the Assembly—the Senate.

Sec. 595. Of course, this decision is somewhat in conflict with some recent decisions of the court, where they have held that the enrolled bill signed by the presiding officers is the best evidence of the passage of a bill.

Sec. 596. In Ohio practice any question may be reconsidered but under general parliamentary law there are a few exceptions, for instance, it cannot be applied to a motion to adjourn, or to suspend the rules, or an affirmative vote to lay on the table, or the motion to reconsider, may not be reconsidered, nor an appeal from the decision of the chair.

"When the Assembly desires to reconsider its act, it must retract in regular order all subsequent action which affects the act to be reconsidered." (Reed).

CHAPTER XI

DEBATE

American Parliamentary Practice

Debate in National House

Sec. 597. After a question of any description has been presented by a member and proposed by the chair, it is open to debate.

Reed Rules for Debate

Sec. 598. Speaking of debate, former Speaker Reed of the National House says in his parliamentary rules: **"The purpose of debate is to produce unity of sentiment in the assembly by such comparison of views as will enable a majority to form a just judgment on the subject before them for action. As the interchange of views in debate necessarily involves criticism of the views presented, and as criticism of views is liable to pass into criticism of the author, a debate may degenerate into a dispute, and the object of debate be entirely lost sight of. To avoid this and to render discussion an appeal to reason and sentiment, and not an appeal to personal passions there are many parliamentary devices. Among them is the requirement that a member shall never address any one but the presiding officer. He must not allude to any member by name, but by some descriptive expression, like the gentleman who last addressed us. The noble and learned lord, the gentleman from Virginia, etc. Such expressions import respect, and are in themselves a great restraint. Members must not use harsh expressions about other members, must not impute motives, but must always attack arguments and not men who make them. Members may not abuse the rules of the House in order to obstruct public business.**

Jefferson's Rule of Debate

Sec. 599. Mr. Jefferson discusses this subject as follows: "No person in speaking is to mention a member then present by his name, but to describe him by his seat in the House, or who spoke last, or on the other side of this question, nor to digress from the matter to fall upon the person, by speaking, reviling, nipping or using unmannerly words against a particular member. The consequences of a measure may be reprobated in strong terms; but to arraign the motives of those who propose to advocate it, is a personality and against orders; the Speaker should suppress it." (The practice of our National Congress relative to debate is applicable to the Ohio Assembly for the reason the rules are similar; therefore, the rulings and practice of Congress should be helpful in governing debate in the Ohio Assembly).

Debate in Congress

Sec. 599-a. Indecent language against the proceedings of the House or reflections on its prior determinations are not in order in debate. Mentioning a member by name, arraigning the motives of members, and personalities generally are not in order in debate, and it is the duty of the chair to suppress personalities in debate. It is not in order in debate to cast reflections on either the House or its membership, or its decisions, whether present or past. In debating an amendment to the journal on May 20, 1840, David Petriken said: "It could not be denied that of late the proceedings of the House had been such as not only to degrade it as a body, but to degrade the country." The Speaker, Mr. James K. Polk, called the gentleman to order and said: "It is not in order for the gentleman to say anything disrespectful to the House." On July 14, 1866, the House was considering the bill providing for the construction of certain bridges, when John Hogan was called to order for the following statement: **"They have their agents here**

upon this floor; they have their interested stockholders here to vote upon this measure and rob the people of the West of the great God-given right to navigate freely the great Mississippi river." Green Clay Smith was called to order for pronouncing the opinions and decisions of the House, **damnable heresies**.

Sec. 599-b. John A. Bingham was called to order for the following words in debate: "I say now and here, and stand ready to make it good before the tribunal of history and the great tribunal of the American people; that the proposition to be set up here of the right of the minority to stay indefinitely the right of the majority to legislate is as **disgraceful, as dishonorable**"—Speaker Blaine ruled that the foregoing words were unparliamentary.

Sec. 599-c. Words spoken in debate impeaching the loyalty of a portion of the membership of the House are out of order. On Jan. 15, 1868, the House was considering the bill relative to the more efficient government of the rebel states, when John Farnsworth was called to order for the following words, spoken in debate, "And whoever commends himself to the affections of the rebel element then commends himself equally to the affections of their rebel brethren on this floor."

Sec. 600. Speaker Colfax ruled it was out of order to thus refer to members of the House. In most of the foregoing instances the speakers were severely reprimanded by the chair.

It is not permissible in debate for a member to address another in the second person.

Sec. 600-a. In the third session of the 55th Congress, Joseph G. Cannon was debating a question with Wm. P. Hepburn, of Iowa, when the former addressed the latter by the personal pronoun, "you," instead of referring to him as "the gentleman from Iowa." Speaker Reed thereupon called Mr. Cannon to order, saying: "The gentleman from Illinois should not use the second person in addressing a member." In a debate in the second session of the 58th

Congress. Henry Cooper, referring to another member, used the pronoun "you," being called to order. Mr. Speaker Joseph G. Cannon said: "Gentleman should not interrupt without the consent of the member speaking, and the chair again cautions the House."

Sec. 600-b. It is not in order for a member in debate to refer to another member by name, e. g.: On March 3, 1898, Mr. James Robison, in the course of debate referred to the chairman of the committee on appropriations by name, when Speaker Reed called him to order and said: "He should not allude to members by name."

Sec. 600-c. It is not in order in debate to call a member by name or comment upon his actions in a preceding Congress. It is improper in debate to arraign the motives of members. A member who has been called to order in debate, and directed to sit down cannot proceed except by consent of the House, e. g.: In March, 1903, Mr. George A. Pearce, referring to an opponent in debate said: "The gentleman is guilty of a worse offense in concealing the truth from the House. especially when the gentleman knows the motive was a personal one." Thereupon, Mr. Speaker Henderson called him to order and said: "The motives of gentlemen must not be impugned." Personalities aimed at a member in a capacity other than that of representative or senator are not in order, neither is it in order to accuse another of an offense not connected with the representative capacity of the latter.

Sec. 601. Where charges of bribery have been made against a member, a question propounded to him by another on the subject has been held in Congress to be in order. It has been held, while in debate, the assertion of one member may be declared untrue by another, but in so doing, an accusation of intentional misrepresentation must not be implied. A member may not be required to give authority of any respectful statement which he may quote in debate. If a member is called to order in debate he should immediately sit down, unless the House on motion,

but without debate, shall permit him to explain or proceed to order.

Sec. 602. Mr. Jefferson says: "If repeated calls do not produce order, the chair may call by his name any member obstinately persisting in irregularity, whereupon the House may require the member to withdraw."

Words spoken in debate being held out of order, and the House having permitted the member to explain, it is then in order to move that he be permitted to proceed.

Members in Debate Should Not Attack the Chair

Sec. 603. Complaint of the conduct of the chair should be presented directly for the action of the House, and not by way of debate on other matters. Allusions or criticisms of the presiding officers are not in order, not that such officers are always above criticism or attack, but because they are presiding officers and such attacks are not conducive to the good order of the House, and because the chair cannot reply to them except in a very fragmentary fashion, and it is not desirable that he should reply to them, therefore such attacks should not be made.

Sec. 604. If there be any objections to the acts of the chair they are not above criticism by direct presentation for the action of the House. Although debate on a question of order is within control of the chair, yet he puts to the House the question whether a member called to order during such debate shall be allowed to proceed in order. A member who has been called to order in debate and decided out of order loses the floor and another may be recognized. The following is the form and manner employed in Congress for censoring members for disorderly conduct and violations of rules:

Resolutions of Censure

Sec. 605. Resolution, — Whereas, On the (date) day one (name) a member of the House (here state words used) and whereas such remarks are violations of the rules

of the House and a breach of decorum and deserve the censure of this House;

Therefore, resolved, That said (name) for said violation of the rules of this House and its decorum is deserving of censure, and is hereby censured.

References to Committee, the Other House or Chief Executive

Sec. 606. It is against order to refer the proceedings of a committee in debate, unless the committee have formally reported their proceedings to the House. Neither the chairman of a committee nor any other member of committee or of the House can be permitted to allude, on the floor, to anything which has taken place in committee or in any way relate in debate what was done by said committee, or by the individual members of the committee, except it be done by a written report made to the House by authority of the committee.

Sec. 607. It is in order in debate to refer to the President, or his opinions, either with approval or criticism, provided that such references be relevant to the subject under discussion, and otherwise conformable to the rules. But a reference in debate to the probable action of the President was held in Congress to involve no breach of order, but it is a breach of order to refer in debate to the debate or votes on the same subject in the House. The parliamentary rule on the subject as laid down by Jefferson is as follows: "It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there, because the opinion of each House should be left to its own dependency, not to be influenced by the proceedings of the other; and the quoting that might beget reflections leading to a misunderstanding between the two Houses.

Sec. 608. Neither House can exercise any authority over a member or officer of the other, but should complain to the House of which he is a member, and leave the punishment to them. It is the duty of the House, but more

particularly the chair to interfere immediately and not to permit expressions to go unnoticed which may give ground of complaint to the other House." Sec. XVII.

Sec. 609. Reference to methods of procedure in the House for the purpose of influencing the other are out of order, neither is it proper to refer to the actual or probable action of the other House. If the motives of a member of either House have been impugned in the other House, he may refer to the proceedings of that body sufficiently to explain his own motives, but may not under the rights of privilege bring into discussion the whole merits of the controversy.

A senator in debate having assailed a member of the House, the member was allowed, as a matter of privilege, to explain to the House his own conduct, but not to assail the senator in his capacity as a senator. Chap. CXIII, CXLV, Vol.. 5.

CHAPTER XII

RULES FOR VOTING

Sec. 610. **How Questions are Put.**—The question is always put first in the affirmative and then on the negative side.

Sec. 611. **Form of Question.**—The rules of the Assembly provide that all questions shall be put in this form: **"Those who are of the opinion (as the case may be) say 'Aye'"** and after the affirmative vote is expressed **"Those of a contrary opinion say 'No'"**. The Speaker then renders his decision as to the sense of the House by the sound of voices. The decision of the Speaker stands **as the judgment of the House unless an appeal** is taken and a division shows the House does not agree with the ruling.

Sec. 612. **How Sense of House is Procured.**—The sense of the House on all questions may be taken in four different ways: First, by unanimous consent, no objection being offered; second, by the sound of the voices; third, by a division of the House; and fourth, by a yea and nay vote.

Unanimous Consent

Sec. 613. In this instance the member in fact does not make a motion, but requests unanimous consent for a specified purpose. If no objection is made his request is granted. To illustrate, a member could ask unanimous consent of the House to make a bill a "Special Order," if no one objected thereto the bill would become a "Special Order" for the day and hour named.

Vote by Voice

Sec. 614. The vote by voice is taken by the Speaker putting the question and requesting those who favor the

proposition to respond by saying "aye, and those opposed respond by saying "no"; the speaker then decides the question by the greater sound of the two voices. In some Eastern states the vote is frequently taken by a show of hands.

Vote by Division

Sec. 615. A division of the House may be taken on a question — when a ye and nay vote is not required — at the pleasure of the Speaker, or upon the demand of any member. When a division is demanded the Speaker requests all who favor the proposition to rise and remain standing until counted, when the count of the affirmative vote is completed those who are opposed are requested to rise and remain standing until counted. The Speaker then announces the result of the vote. Any two members may demand a ye and nay vote before the House divides.

Manner of Taking Sense or Vote of Body Employed in the English Parliament

Sec. 615-a. In the English House of Lords members commencing on one side of the House arise in their seat and announce "content" or not content, this is continued until each member has expressed himself.

The practice in the House of Commons until 1836 was to send one party forth into the lobby, the other remaining in the House. Two tellers for each lobby then counted the members and reported them. In 1836 it was thought advisable to adopt some mode of recording the names of members who voted and they adopted and still use the following plan which is called A DIVISION OF THE HOUSE. (May)

Record Division Vote

Sec. 615-b. There are two lobbies, the speaker directs the ayes to go into one lobby and the noes into the other and the House is entirely cleared, one party being sent to each lobby. The speaker then appoints two tellers for each lobby. Two clerks are also stationed at each of the entrances to the

House, holding lists of members, the clerks place a mark against each of their names and the teller counts the members as they return to the house. (Thus they have a record vote.) When both parties have returned into the House, the tellers on either side go to the speaker's table and report the numbers; and, if they agree, the speaker then declares the result. If tellers do not agree or a mistake is discovered another division is taken. If there should be a tie the speaker or chairman must give the casting vote. (May)

While not identical with this the National House has a similar practice but do not get the record vote. But no division of this kind is permissible except upon regular demand of members which must be seconded by one-fifth of a quorum. See May pp. 274-275. Taking the vote in the foregoing manner does away with repeated roll calls. If a member is present he cannot "duck." He will be compelled to enter one of the lobbies and his vote will be recorded when he comes out.

Of Taking the Sense of the House By General Consent

Sec. 616. When this method is adopted the question is not put for those who are on the one side or the other to declare themselves, but the presiding officer merely inquires: "Is it the pleasure of the House that such a thing should be done?" If no member dissents, the thing is ordered to be done without putting the question in any other form, but if there be one objection it is then necessary for a motion to be made and the question put.

This method of taking the sense of the House is fair and represents good parliamentary practice. It is defeated by one negative vote instead of a majority. The member making objection must do so with the same formality he would make a motion. This method of taking the sense of the House has not been a common practice in the Ohio assembly, but Speaker Kimball in the 83rd Assembly made frequent use of this plan and it was received favorably by the members. There are motions that come regularly in the transaction of business, and it sometimes occurs that

the Speaker must wait for some one to make the necessary motion to advance the business. When members are negligent, the presiding officer need not wait, but may ascertain the will of the House by general consent, thus: Speaker: "Is it the pleasure of the House that the rules be suspended and bills on the calendar be read a second time by title only?" (After a pause for objection) "There being no objection, it is so ordered, the clerk will read the bills by title." It should be noted in the journal in the ordinary way that the rules were suspended. See Cushing, 1611, 1793.

Division of House

Sec. 617. When the Speaker is in doubt of the result of a vote taken by the sound of voices he may request a division of the House.

Sec. 618. If any member disagrees with the decision of the Speaker on a vote taken by the sound of voices he may demand a division of the House, providing no new business has intervened before the demand for the division is made.

Vote by Yea and Nay

Sec. 619. The vote by yeas and nays is taken by the clerk calling the roll of the members in alphabetical order, each member, when his name is called, responding yea or nay according to his judgment of the merits or demerits of the proposition.

Sec. 620. **Changing Vote.**—A member may change his vote on any question before the Speaker announces the result.

Sec. 620-a. If an error has been made in recording the vote of a member on any question he may correct it on the following day when the Journal is read but before approval of Journal.

Sec. 621. **Members Required to Vote.**—Every member present is required to vote on all questions that come before the House, unless excused from so doing by the House.

Sec. 622. How Vote may be Recorded when Absent.

— If a member is absent on the day a vote is taken, he may, if he so desires, have his vote recorded on the proposition at a later day. When a member requests his vote to be recorded, the clerk calls his name, the member responding yea or nay. In cases of this kind the member's vote would not appear on the regular roll call, but would be a part of the Journal for that day, it being merely an indication of how the member would have voted had he been present when the original vote was taken.

Sec. 623. Result of Equal Division — When there is an equal division of the vote of the House on any question the proposition is defeated.

Sec. 624. Contest of Seat. — A member who has produced a certificate of election and takes the oath of office, if his seat is contested, is qualified to exercise all the rights of a member until a decision is rendered in such contest. If removed, his rights, of course, as a member of the House cease at once.

Sec. 625. When Speaker Votes. — The vote of the Speaker, if he votes, is always recorded at the end of the roll call.

Sec. 626. Correction of Vote in Journal. — When a member votes and the Journal fails to include his name among the yeas and nays, he may demand, as a matter of right, a correction before the Journal is approved.

Sec. 627. Refusal of Yea and Nay Vote. — The yeas and nays having been once refused may not again be demanded on the same question.

Sec. 628. When to Demand Yea and Nay Vote. — The yeas and nays may be demanded after a division, but not after the result has been announced.

Sec. 629. How Names are Called, — On the roll call for a yea and nay vote, or a call of the House, the clerk calls the names of members alphabetically by surname.

Sec. 630. Names May Be called Again. — After a roll call has been called through, any member may demand that the names of those not voting be again called.

Sec. 631. **Verification of Vote.**—After a roll call has been completed and before the announcement of the vote, any member may demand, or the Speaker may order, or the clerk may voluntarily, verify the roll call. This is done by the clerk announcing first the name of each member who voted in the affirmative, and then those who voted in the negative. This gives members an opportunity to correct their votes if found to be improperly recorded.

A yea and nay vote can not be verified after the Speaker announces the result.

Sec. 632. **Interruption of Roll Call.**—After a call of the yeas and nays has begun it may not be interrupted for any purpose.

Sec. 633. **Explanation of Vote.**—If a member desires to explain his vote he must do so before the roll call has begun on the proposition.

Error in Announcement of Vote

Sec. 634. Where by an error of the clerk in reporting to the Speaker the yeas and nays, the Speaker announces a result different from that shown by the roll call, the status of the question must be determined by the vote as actually recorded. When an error of this kind is discovered it is the duty of the Speaker to explain same, announce the true result and order the Journal corrected accordingly.

Vote Necessary on Various Propositions

Sec. 635. — **To pass a bill —**

Majority of both Houses.

To adopt a Joint Resolution —

Majority of both Houses.

To adopt an amendment —

Majority of a quorum.

To agree to committee report —

Majority of a quorum.

To suspend the House or Senate rules —

Two-thirds of those voting, a quorum being present.

CHAPTER XIII

PROCEDURE AND PRACTICE

Possession of Papers

American Parliamentary Law

Sec. 636. A rule of parliament as ancient as the body itself is that no action may be taken by either body of the legislature, unless the body taking such action is in immediate possession of the papers to be acted on. In the practice of the Ohio Assembly this rule has not been strictly enforced and the abuse of the rule has frequently led to much inconvenience and serious complication at the clerk's desk.

Sec. 637. In his discussion of this principle of parliamentary practice Mr. Cushing says: **"It is a general rule, that it is not competent for either House, or any of its committees, to proceed upon a bill or other paper which is not in its possession,** and in such cases, therefore, when a bill, joint resolution or series of amendments from the other branch is lost, or mislaid, the House to which the same is sent, may request of the other by message, a certified copy of such bill, resolution or amendments, and this request is never refused, but if the bill or other paper in question is of the same House, the committee on reporting the fact that the paper referred to it is lost or mislaid, or that it has been sent to the printer and that it will not likely be returned in season, action should be deferred, or the committee may proceed upon a copy furnished by a member." (Cushing.)

Application of the Above Rule to Conference Reports

Sec. 638. Mr. Jefferson thinks that **neither House should ask for a committee of conference unless they**

have possession of the bill. He says: **"A request for a conference must always be by the House which is possessed of the bill or other papers."** Manual, p. 98.

Mr. Cushing says: **"The report of the committee of conference is the same in both branches and is made in each House by the committee which belongs to it, accompanied by the bill and other papers in that branch, the committee of which is entitled to them."** Cushing. (Sec. 2269.)

Sec. 639. **A similar report without the bill or papers is ready at the same time, to be made in the other House by its committee. If made immediately, the consideration of the report is deferred until the bill comes into that branch or the making of the report may be deferred until that time."** Cushing. (Sec. 2270.)

Sec. 640. The joint rule of the Ohio assembly clearly provides which committee is entitled to the papers.

Application of Rule to Reconsideration

Sec. 641. In Mr. Jefferson's discussion of this rule in its application to reconsideration he says: **"If after a vote, the paper on which it passed has been parted with, there can be no reconsideration."**

Sec. 642. Mr. Cushing, however, says: **"A motion for reconsideration may be made and discussed in the absence of the paper to which it relates, yet, if decided in the affirmative, it will be wholly ineffectual and inoperative, until the paper in question is in possession of the House."** (Secs. 1250-1264.)

Sec. 643. It is entirely safe to lay down as a general parliamentary law, that no order can be made in reference to any subject which is not regularly before the House. The foregoing principle is clearly set forth in Ohio Senate rule 113 and the corresponding House rule 46. These rules clearly present the constant and uniform practice of both Houses.

American Parliamentary Practice

Sec. 644. On June 26, 1902, the conferees on the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans, presented in the House their final report, through Mr. William P. Hepburn, of Iowa, chairman of the managers.

The report and statement having been read, it appeared that the original bill and amendment were not in the possession of the House.

Sec. 645. The Speaker (David B. Henderson) said:

It is impossible to consider this matter unless the papers are before the House, and they do not seem to be in the possession of the House.

The report and statement of the conferees are in our possession, but the House is not in possession of the papers; and it has been repeatedly held, and long ago thrashed out, that business can not be done by this body unless the papers are in its possession.

Mr. William Sulzer, of New York, as a parliamentary inquiry, asked what papers were necessary.

The Speaker said:

The bill itself and the substitute bill and all of the original papers in the case. The Chair will state that nothing can be done until these original papers are found.

Mr. Hepburn, as a parliamentary inquiry, asked if the House could, not, by unanimous consent, proceed with the report.

The Speaker said:

Not without the original papers. The matter will have to go over until they are found.


On March 3, 1869, Mr. Colfax expressed the opinion, in the case of a verbal report from a committee of conference, that "no motion could be entertained or action had on any bill not in the possession of the House."

Sec. 646. On April 23, 1858, in the Senate, Mr. James S. Green, of Missouri, presented the report of the managers of the conference on the bill (S. 161) "for the

admission of the State of Kansas into the Union." The original bill and amendments were at that time before the House, having been presented with the report of the House managers.

Sec. 647. Objection was at once made by Charles E. Stuart, of Michigan, that the report could not be made because the papers were with the other House — i. e., the original Senate bill, the House amendment, and the substitute proposed by the conferees. At once a debate began as to whether a conference report might be presented in the absence of the papers. Mr. Stuart quoted the parliamentary law showing the papers were left always with the House agreeing to the conference — i. e., in cases where the conference was asked after a vote of disagreement. He admitted that in a case where a conference was asked without a disagreement, the papers are retained by the House asking the conference. In this case the Senate had disagreed, and asked the conference, and the papers were properly with the House. The Senate decided to receive the report, the presiding officer, Mr. James M. Mason, of Virginia, deciding that the report might be presented and then that objectionable matter might be considered later if any should be found. The report having been presented, Mr. Stuart renewed his objection to action without the papers, and a debate, evidently divided somewhat on party lines as regarding the merit of the bill, arose. It was urged by Mr. Green and others that the report of the conferees was the only thing acted on, and that it could be acted on in the absence of the bill itself. They declared that this had frequently been done. On the other hand it was urged that such a procedure never took place, except by unanimous consent or in the late hours of a session. In the course of the debate Mr. William H. Seward, of New York, said:

I think that the written law on this subject is perfectly plain. According to the law this bill is in the House of Representatives; and this proposition being nothing more than an amendment to a bill, which would occur if



an individual Senator were to rise in his place and propose the same amendment, in the same words, to a bill now pending in the House of Representatives. The fact that this amendment has come from the committee of conference does not alter the nature of the transaction in the least. For * * * it is either a new bill, and therefore must be read three times before it can pass, which is a *reductio ad absurdum*, or else it is an amendment; and if it is an amendment, and not an original or new bill, then it is an amendment to something, and it can not be an amendment to anything that is here, and can only be an amendment to a bill which is somewhere, which bill is not here, but is in the House of Representatives. It is impractical as well as a legal impossibility for the Senate to amend a bill which they have not the custody of, and which is not before them; for the effect of passing the amendment, or concurring in the report, is to stamp that amendment upon the identical parchment upon which the bill is written, and obliterate from the bill the matter for which the amendment is substituted.

Form of Certificate to be Attached to Bills Passed Over the Veto of the Governor

Sec. 648. When a bill is returned to either House with the disapproval of the Governor and is passed by both Houses by the constitutional majority, notwithstanding the objections of the Governor, there should be two certificates, one for the Senate and one for the House on the back of the bill, which should be signed by the speaker and clerk of the House and the president and clerk of the Senate substantially as follows:

FORM

Sec. 649. We do certify that the bill (Number and title) which was disapproved by the Governor and returned with his objections to the House of Representatives (or Senate) in which it originated, was passed, notwithstanding such objections, by the constitutional majority of three-

fifths, on this (here give date) and the foregoing is the act so passed by the House.

SignedSpeaker

SignedClerk of House

The same certificate as the above should follow and be signed by the president and clerk of the Senate. It should be signed first by the officers of the body in which it originated.

Presentation of Bills to Governor

Sec. 650. Under the present plan of presenting bills for the consideration of the executive, the Assembly is not officially notified as to the time of filing. At present, bills are sent to the Governor by the message clerk of the Senate, who of course, gets a receipt for them, but the time they are received is not reported and therefore never appears in the journal. The members of right should know of this transaction, and for this reason the writer recommends the plan of Congress as follows: When bills have been properly authenticated, they should be taken to the Governor by the committee on enrollment or some member of such committee by it appointed for that purpose who upon presentation of bills and resolutions should at once report to the House of which he is a member the day and hour such bills were submitted to the executive. And the same should be entered upon the journal in that House and at once messaged to the other House. Members would then know about the time to expect final action on their bills, also when the Governor notifies the clerk of either House that he has favorably acted upon bills. The clerk should at once communicate such notice to the body of which he is clerk, have same entered on the journal and by message communicate such information to the other branch to be entered on the journal. If a rule of this sort were in operation, members would have all necessary information without running to the office of the Governor for such information.

Effect of the Rejection of a Bill

American Parliamentary Practice

Sec. 651. The law of Parliament on this important subject is as follows: A question once carried cannot be questioned again at the same session, but must stand as the judgment of the House. A bill rejected, another of the same substance cannot be brought in again in the same session. The foregoing rule of Parliament is not rigidly enforced in Parliament nor is it in our National Congress. Speaker Banks ruling on this English rule said: The language of this rule, that a bill once rejected cannot be again brought in, refers to the provision of a bill, and not to bills on the same subject. The practice of Congress may be summed up as follows: a bill having been once rejected by the House, a similar but not identical bill may again be introduced and be in order. In the case of a resolution Speaker Colfax held that it could again be presented if one or two words were changed to make it in fact a different resolution.

Text of a Bill

Sec. 652. In general the text of a bill is that to which both Houses have agreed — the clerk is not permitted to make any change, no matter how unimportant, in the text of a bill, to which both Houses have agreed. The text of a bill to which both Houses have agreed may not be changed except by unanimous consent of both Houses. When considering in either House amendments of the other to a bill, it is not in order to change the text of a bill to which both Houses have agreed.

In general parliamentary law conference committees may not change the text of a bill but under the rules of the Ohio Assembly conference committees are given unlimited powers and may change the text of a bill, even to the extent of offering a substitute. Under general parliamentary law, provisions changing the text of a bill have been permitted to be appended to a conference committee

report, and agreed to by unanimous consent, after action has been had on the report proper.

Tie Vote

Sec. 653. Where there occurs a tie vote the motion fails unless the chair gives his vote in the affirmative. When his vote will make a tie, he may cast it, and thus defeat the measure. (Roberts.)

How to Proceed When a Bill from the Other House Has Been Lost or Misplaced

Sec. 654. Not often, but it sometimes happens that a bill received from the other House is lost or misplaced. When this happens some member should introduce a motion ordering a duplicate copy of same from the clerk of the other body. This is necessary for the reason that no action can be taken upon the bill unless it is actually in possession of the House considering it. e. g. it would be out of order for either House to proceed to consider a bill of the other unless in possession of the engrossed copy.

Sec. 655. Form for motion to get duplicate copy. (A motion of this importance should be written out and sent to the Clerk's desk.) Ordered: That the Clerk of the Senate be directed to request the House of Representatives to send to the Senate a duplicate engrossed copy of the original bill of the House, H. B. No. (Title) the original having been lost and after diligent search the same cannot be found.

Sec. 656. On the occasion of a lost Senate bill in the House of Representatives, Mr. Mann made the following parliamentary inquiry of Speaker Connor. "Is it in order to suspend the rules to consider a Senate bill without the engrossed copy of the bill?" The Speaker said: "**Certainly not.** In other words, if the bill is not in possession of the House no vote can be taken. The House cannot act upon a bill of which it does not have actual possession."

Relating to the Authority or Right of the Presiding Officer to Adjourn the House

Sec. 657. In the English parliament it is the undoubted, unquestioned, right of the presiding officer to adjourn the House, whenever the body falls below a quorum and in the absence of the presiding officer, the right to do so is lodged in the clerk. The reason for the foregoing power being lodged in the officers is this: Neither house of parliament can transact any business in the absence of a quorum. The making of a motion and putting the question to adjourn is business and therefore cannot be put and it is necessary for the power to adjourn the body to be lodged somewhere or the bodies might be kept sitting indefinitely and powerless to transact business. The power to adjourn the Houses in this country, with the exception of three or four of the eastern states is not given to the officers, for the reason that the constitution of nearly all the states and of the National government provide the manner of adjournment for each body when it finds itself without a quorum, and the constitution supercedes parliamentary law and the presiding officers. Writing upon this subject Mr. Cushing says: "When the number necessary to form quorum of a legislative assembly is fixed without the presence of whom no business can be entered upon, or proceeded with, the inability extends and applies to questions of adjournment as well as to other matters of business; and if a quorum is not present, no question of adjournment can properly be proposed to the assembly itself for its decision, for it is not then in a condition to decide any question. The only thing that can be done in such an emergency, is for the presiding officer, or the clerk, if the former is not present, to declare an adjournment until the next sitting day." Sec. 361-1396.

Sec. 658. In a foot note Mr. Cushing says: "In those of the American Legislative Assemblies, in which a less number than a quorum is authorized to adjourn, the presiding officer must wait for a motion. In the meantime

business is suspended, but is renewed again on the appearance of a quorum."

Introducing Bills by Request

Sec. 659. Frequently members are handed bills by their constituents or other citizens with the request that they introduce them for the consideration of the Assembly. Such bills may be introduced by the member writing after his name in parenthesis the words (by request). Such bills as a rule are prepared by persons who are inexperienced in bill drafting and are usually not in proper form for presentation.

Before introducing such bills, they should be carefully examined as to their form and whether in all respects they conform to the Assembly rules. It would prevent delay at the clerk's desk if such bills were submitted to the clerk or speaker, for examination before introduction.

Chair to State Request for General or Unanimous Consent

Sec. 660. In all cases where unanimous consent is asked for advancing a bill, or entertaining a motion or resolution out of order, it is the duty of the chair to proclaim such request and determine if such request will be granted. unless he desire to register his own objection by refusing to put such request. As stated elsewhere, one objection defeats unanimous consent. The usual manner of ascertaining if unanimous consent is granted is for the chair to state the request, and then inquire if there be objection. If the speaker, has objection to the request he may enter his objection by stating that he refuses to recognize the gentleman fro that purpose. The president of the senate, not being a member of the body, may not object. If no objections are made, it is the duty of the chair to proceed to have the request carried out.

Presentation of Petitions

Sec. 661. From the organization of the first assembly until about 1908, petitions and memorials were introduced in both Houses from the floor by the members. This is still the practice in the Senate, but at the time the Hon. Edward Doty was clerk of the House, he adopted the present plan of filing such papers with the clerk by depositing them in a box at the right of the clerk's desk. (This plan has proven highly satisfactory to both officers and members of the House. It is more convenient, avoids confusion and expedites business. The adoption of this plan in New York, Maine, Pennsylvania, Illinois and the National Congress has proven so beneficial that it has been extended to the introduction of bills and committee reports in these bodies.) A member presenting a paper, report, memorial, or petition to either House should first ascertain approximately the number of the signers on the petition, then fold same in a convenient form to deposit in the petition box, or present from the floor in the Senate, then he should proceed to endorse same properly on the back thereof as follows: A brief statement of the contents, the name of the member presenting the same and the committee to which it is to be referred and sign his name.

Form

Sec. 662. Mr. Crabbe presents the petition of John Doe, (the first name on the petition) and two hundred other citizens of Madison county, requesting the passage of H. B. No. 482.

To be referred to the committee on common schools.

Signed,

C. C. Crabbe.

The clerk at the close of each day enters petitions on the journal in the House and then sends them to the proper committee. In the Senate they are placed upon the journal immediately when received and by the clerk sent to the committee.

Questions of Privilege

Sec. 663. Questions of privilege are of two kinds, (they should not be confused with privileged questions) those relating to the Assembly or those relating to the member personally, the latter taking precedence of the former. Questions of privilege take precedence of all other questions. However, the chair should not permit a member to abuse this privilege, which is very often done.

Sec. 664. Very often a member who is unable to gain the floor in any other way, rises to a question of personal privilege and if recognized, proceeds to discuss the pending question, or to defend someone other than himself. When this occurs, a point of order should be raised by a member and sustained by the chair, who should immediately order such person to take his seat.

We recall a member who rose to a question of personal privilege and proceeded to defend the acts of an officer of the national administration. Sometimes members feel it their duty to take advantage of personal privilege to defend state administration officers. All this is against order.

State Officers Should Be Notified of Organization

Sec. 665. When either branch of the Assembly is organized and ready to proceed to business, it has been the custom to notify the other branch of its organization, but strange as it may seem, it has not been the custom to notify the Governor of the personnel of such organization, but as a matter of business, as well as courtesy, this should be done, in order that the latter should be informed as to whose signature as attesting officers of the two branches credit is to be given.

Sec. 666. Neither should the names of the officers of the House and Senate be left to find their way to any of the state officers or departments by chance or accident, but all should receive official notice of the organization of each branch, either by separate or joint action. The notice should be sent as soon as the organization is perfected.

The Principle of the Rule of Decision in all Legislative Assemblies

Sec. 667. "The rule of decision," says Mr. Cushing, "In all councils and deliberative assemblies, whose members are equal in point of right is, that the will of the greater number of those present and voting—the assembly being duly constituted, is the will of the whole body. Hence, whatever is agreed upon by a majority of the members of a legislative body is a thing done and past by that body. When the body is equally divided, there is of course not a majority in favor of the proposition and the proposition is consequently decided in the negative."

Sec. 668. "The right of the majority to rule is founded on good reason, the members being supposed equal, it is at least probable, if not certain, that there will be more knowledge, wisdom and virtue in a majority than any smaller number; * * * the law of the majority is universally admitted in all legislative assemblies except in particular cases or circumstances a different rule is prescribed by some paramount authority, or is agreed upon beforehand and established by the assembly itself in the rules by which a smaller number is permitted, or a larger number is required to do some particular act. But even in these cases, it is the will of the majority that governs because it is by a major vote in the first instance, that the rule itself is established, or where the rule is established by the constitution or by law, it derives its authority from the sovereign power of the people acting in a constitutional manner, which ultimately resolves itself into the will of the majority. Therefore, according to the foregoing rule, every question propounded to the Assembly for its determination and vote upon in any manner, receives its decision according to the majority of votes, unless some other rule is expressly prescribed, as there usually is in each branch of the assembly, in reference to particular questions.

In many cases it is provided either by constitutional requisition, or by rule, that particular questions, in order

to prevail, shall require more, or admit of less, than the ordinary majority in their favor.

Sec. 669. When more than the ordinary majority is required to take the initiatory steps, as for the passing of a certain class of bills or resolutions, all questions for amending such bills or resolutions, except amendments from the other branch, and all incidental or preliminary questions thereon, short of the final question, are determinable by the ordinary majority. The same is the case where it is required by rule, that certain questions shall not be adopted, unless a proportion greater than a majority is in favor, all amendments of such questions require only a majority vote."

AMENDING ENROLLED BILLS

Process of Recalling from the President and Amending Enrolled Bills by Congress

American Parliamentary Practice

Sec. 670. "On Feb. 13, 1906, Senator John P. Morgan, offered the following resolution which was agreed to:

Resolved by the Senate (the House of Representatives concurring), That the President is requested to return to the House of Representatives, House Bill 297, To authorize the construction of dams and power stations on the Tennessee river, for the purpose of amendment.

Sec. 671. Mr. Morgan explained the purpose of the resolution as follows: This bill passed both Houses and went to the President.

"There is a difficulty in the draft of the bill which has challenged the attention of the President and raises in his mind an objection to the bill, which difficulty can be removed by amendment exactly in accordance with the purpose for which the bill was offered."

On the same day it was agreed to by the House and on the next day the bill was returned by the President to the House. Then the following resolution was introduced in the House and agreed to.

Sec. 672. **Resolution.** — Resolved by the House of Representatives (the Senate concurring) That the action of the Speaker of the House of Representatives and the President of the Senate in signing the enrolled bill H. R. 297 (title) be rescinded, and that in the re-enrollment of the bill the following amendments be made: Amend section 1 of the enrolled bill by striking out after the word "elect" at the end of line 5, the following: "between the mouth of Malletts creek on the east" and in line 6 of said section insert in lieu thereof "and the secretary of war may approve between a point on the southern side of the river opposite to or below the head or opening of the canal constructed by the United States on the north side of the river". Insert after the word "river" in line 10 of said section "* * *." Then follows about twelve more amendments. The House agreed to the resolution and the following day it was agreed to by the Senate. The bill was then enrolled with the amendments and returned to the President.

Another Method

Sec. 673. On March 15, 1902, the House received the following message from the President: To the House of Representatives. In compliance with the resolution of the House of Representatives of the 14th, inst (the Senate concurring), I return herewith bill 5224, entitled "An act for the relief of Edward Kershner." Signed, Theodore Roosevelt. After the reading of the President's message Mr. Dayton offered the following resolution: "Resolved, That the message of the President and the bill of the House 5224 be transmitted to the Senate with the request that the Senate reconsider its action in passing said bill in order that an amendment may be made to the same by striking out the word "director" and inserting in lieu thereof the word "inspector." The resolution was agreed to and sent to the Senate. On the same day, in the Senate the bill was considered by unanimous consent. The vote whereby the Senate had passed the bill was reconsidered, and the

amendment suggested by the House, was agreed to. The bill was then passed as amended. It was then returned to the House as amended and the bill with Senate amendment was concurred in by the House, re-enrolled and returned to the President."

Sec. 674. In this latter method of Congress it does not appear that any action was taken to rescind the signatures of the presiding officers. It was evidently thought that the act of reconsideration and amendment and re-passage of the bill would nullify the former enrollment. This latter method of Congress seems to be more regular and more in accordance with general parliamentary law. The former method is more used than the latter.

Neither method could be used in the Ohio Assembly except by a suspension of the rules.


How Congress Pulls Itself Out of Parliamentary Entanglements

Sec. 675. Congress, like the Ohio Assembly, enrolls its bills in printing instead of in writing. At the latter part of the session, for convenience, it is usual for Congress to adopt a resolution like the following:

Suspending National Law

Sec. 676. "Resolved by the House of Representatives (the Senate concurring) That during the last six days of the present session of Congress the engrossing and enrolling of bills and resolutions by printing as approved by act of Congress March 2, 1895, may be suspended and said bills and joint resolutions may be written by hand or type-written."

Sec. 677. The House, by suspension of rules sometimes waives the usual requirements as to the examination of enrolled bills. On March 3, 1855, Representative Houston for the committee on enrolled bills reported that it was an impossibility for the committee on enrolled bills to examine all the bills before it before the time should



arrive for the adjournment of Congress. Thereupon, by suspension of the rules, it was

Ordered that leave be granted to the committee on enrolled bills to report without examination for the signature of the speaker. The bills were then reported and signed by the speaker.

Sec. 678. In exceptional cases Congress has waived the strict requirements as to the enrollment of bills.

Suspending Enrollment Rule

Sec. 679. In 1874, the Senate disagreed to a concurrent resolution of the House proposing to suspend the joint rule requiring bills to be enrolled in parchment and to allow certain House bills providing for a revision of the statutes to be presented to the President as engrossed in the House and amended in the Senate. The reason for this proposition was the great labor of enrolling by hand. The Senate disagreed to the resolution, the House insisted on the resolution and the matter was referred to a conference committee. The disagreement was settled by the adoption of a provision that the bills in question should be printed upon paper and certified by the joint committee on enrolled bills provided by the joint rules.

The Clerk Is Sometimes Authorized to Make a Formal Amendment to a Bill that Has Passed the House

Sec. 680. In 1891, the Speaker read a letter to the House from its clerk stating that in the deficiency appropriation bill passed on the preceding day, the total on a certain page required to be changed to conform to the changes made by striking out several paragraphs by the House. Thereupon, it was ordered, that the clerk be authorized to make the suggested correction in said bill.

The Committee on Enrolled Bills Sometimes Reports an Amendment to Correct a Clerical Error

Sec. 681. In 1848, Mr. Hampton from the committee on enrolled bills moved that the bill of the House 340 be

amended by changing a name of N. P. Callan to M. P. Callen, which motion was unanimously agreed to by the House and the bill was amended accordingly.

Thereupon, Mr. Hampton reported that the committee had examined the bill and found it correctly enrolled.

Clerical Error in a Bill Has Been Corrected by Joint Action of the Committees on Enrolled Bills

Sec. 682. In 1857, Mr. Davidson from the committee on enrolled bills reported that the committee had examined an enrolled bill of the following title. H. B. No. 400 (title) and having caused a clerical omission in the fourth line of same to be corrected by the insertion of the word "counties" had found the same correctly enrolled.


Mr. Davidson explained that this action had been taken after consultation with the committee on enrolled bills, on the part of the Senate. Thereupon, it was ordered that the approval of the House be given to said correction. The speaker thereupon signed said bill and later it was signed by the vice president.

The Correction of an Enrolled Bill Is Frequently Ordered by Concurrent Resolution of Both Houses

Sec. 683. In 1901, Mr. Baker chairman of the committee on enrolled bills, introduced the following resolution; which was agreed to by the House: Resolved by the House of Representatives (the Senate concurring) That the enrolling clerk of the House be, and he is hereby, authorized and directed to correct the enrolled bill 9928, by inserting in the enacting clause the word "States" after the word "United".

In 1906, Charles Curtis introduced the following resolution:

Sec. 684. Resolved by the House of Representatives (the Senate concurring) That in the enrollment of the bill 5876 (title) the clerk be directed to restore to the bill the part proposed to be stricken out in the amendment of



the Senate number 26 and insert the following: "Tribal educational officers, subject to dismissal by the secretary of the interior", and restore to the bill the part proposed to be stricken out in the amendment number 27.

Objection was made to this resolution by General Kiefer. Thereupon the rules were suspended and the resolution was adopted.

Sec. 685. The House may, by unanimous consent, authorize the speaker to sign an enrolled bill that is not certified by the report of the committee. In 1852, the speaker informed the House that no member of the committee on enrolled bills was present and that it was highly important that the enrolled bill of the Senate No. 451 should be signed immediately. It was then unanimously ordered that if the Speaker is satisfied that said bill is truly enrolled he be authorized to sign the same.

By Unanimous Consent the Speaker on Request of the Senate Was Authorized to Cancel His Signature to an Enrolled Bill

Sec. 686. The House authorized the speaker to erase his signature and then correct an error. The Senate had asked for the return of a certain bill to that body before the request had been received by the House, the Speaker had signed the bill which had been reported to the House. The Speaker, Mr. Reed, suggested that if there be no objection he would erase his signature and return the bill to the Senate. Mr. Carlisle said he understood the error in the bill occurred in the printing at the government printing house. He thought therefore, that the speaker should be authorized to erase his name and return the bill. This authorization was given without objection, and the speaker erased his signature and returned the bill.

Sec. 687. There being an error in an engrossed House bill sent to the Senate a request was made that the clerk be permitted to make a correction.

Sec. 688. In 1843, the House ordered the following message sent to the Senate: An error has been made in

the engrossment of the bill No. 602, as sent from this House to the Senate. The error consists in incorporating in said engrossed bill a section as the third section thereof, that section having been stricken from the original bill by this House previous to the passage of the bill; and that the Senate be requested to permit the clerk of this House to correct said error.

Reconsideration of a Bill Which Had Passed Both Houses

Sec. 689. In 1904, the following resolution was received from the Senate and laid before the House: Resolved, That the secretary be directed to request the House of Representatives to return to the Senate the bill 5611. The resolution was received in the Senate and Senator Spooner announced that the beneficiary of the bill was dead, and also said: "The bill has passed both Houses, the gentleman in the House who had charge of the bill desires us to bring about its recall in order that it might be disposed of in the Senate. I therefore ask unanimous consent that the vote by which it was passed here be reconsidered and that the bill be indefinitely postponed." No objection being made, the vote on the passage of the bill was reconsidered and the bill was postponed indefinitely.

Sec. 690. In 1902, the House sent a message to the Senate requesting that it reconsider the vote whereby it had passed a bill. The message was received in the Senate and laid on the table; the opinion being expressed that the House might dispose of its own bill.

Sec. 691. In 1853, Mr. Henn from the committee on enrolled bills reported a bill for the relief of Barbara Riley, and reported that the bill could be of no effect since the beneficiary had died. Various propositions were made as to the disposition of the bill, but were all objected, to, an objection was made that the committee on enrolled bills might only report as to the enrollment of the bill. Speaker Boyd said: "The chair decides that it is not competent for the committee on enrolled bills to report this bill back in

this form, except by unanimous consent of the House; but, by unanimous consent IT WOULD BE COMPETENT FOR THE HOUSE TO RECONSIDER THE VOTE BY WHICH THE BILL PASSED AND TO REGULARLY NOTIFY THE SENATE OF THAT FACT." Later this bill was reported as truly enrolled and was signed by the speaker and President of the Senate, also approved by the President.

Amending Enrolled Bills

Sec. 692. The following resolution will show the general practice of Congress in correcting errors and making amendments in bills that have passed both bodies and are in the possession of the enrollment committee. Do not permit anyone to deceive you with the idea that Congress has special rules governing such procedure. It has not. Their right so to do is taken from and based upon general parliamentary law, in other words the right of Congress to work upon and perfect a bill exists so long as the bill is in its possession or subject to its recall and that it may continue its consideration of a bill and to perfect same without violating the law, constitution, its rules or parliamentary law, so long as such action taken is joint and agreed to by a majority of both Houses.

Sec. 693. Resolution, adopted by the Sixty-fifth Congress, 1920. "That in the enrollment of the bill (number and title) the clerk be, and he is hereby directed to strike out the word "twenty" where it appears in the last line of section eleven of the bill as agreed upon in conference and insert in lieu thereof the word "nineteen" (S. J. p. 207). It should be noted this resolution amends the bill, and conference report.

Sec. 694. The following illustration will show the operation of Congress in correcting and perfecting bills after they have been passed by both Houses.

Sec. 695. On Feb. 29, 1904, the House passed the following resolution which was unanimously agreed to by the Senate:

Rescinding Signature to Bills

Resolution. "That the action of the president pro tem. in signing the bill (insert No. and title) be rescinded, and that the bill be returned to the House of Representatives, with the request that similar action be taken by the House, with respect to the signature of the Speaker, and that the passage of the bill be reconsidered, and that it be indefinitely postponed."

Sec. 696. By unanimous consent, the Speaker was empowered and directed to cancel his name as provided in the resolution, which he did, and the bill was indefinitely postponed. (Hinds 3455.)

A bill which has passed both Houses may be recalled by the House, that passed it last, and be reconsidered and further action taken. (Hinds 3466-3467.)

Resolution Recalling Bill

Sec. 697. The following illustration is a splendid one of the action taken by Congress in recalling a bill from the President and amending same. On Feb. 13, 1906, the Senate adopted and sent to the House the following resolution:

Sec. 698. "The President is requested to return to the House of Representatives the bill (no. and title) for the purpose of amendment."

Sec. 699. The purpose of the resolution was explained by the author as follows: "The bill passed both Houses and went to the President. There is a difficulty in the draft of the bill, which has challenged the attention of the President and raises in his mind an objection to the bill, which difficulty can be removed by amendment exactly in accordance with the purpose for which the bill was offered." This resolution was agreed to by the House and Senate and the bill returned by the President, then the following resolution was presented and adopted.

Sec. 700. "That the action of the President pro tem. of the Senate and the Speaker of the House of Representatives in signing the enrolled bill (insert number and title) be

rescinded and in the re-enrollment of the bill the following amendment be made: Amend section 1 of the enrolled bill by striking out after the word "elect" at the end of line 5, section 1, page 1, the following: "between the mouth of Mallets Creek on the east" and in line 6 of said section insert in lieu thereof "and the secretary of war may approve between a point on the southern side of the river opposite to or below the head or opening of canal constructed by the United States on the north side of the river, on the east" and insert after the word "river" in line 10 of said section 1, page 1, the following: "between the two points above mentioned."

Amend by adding after the word "war" in line 13 of said section 1, page 1, of said enrolled bill the following: "For the protection of navigation and the property and other interests of the United States, so that said section of the enrolled bill when amended will read as follows: (Here follows the section in full as amended.)

Amend section 2, page 1 of the enrolled bill by striking out after the word "canal" in line 25, all down to and including the word "river" in line 25 of section 2 and insert in lieu thereof the following "or the Tennessee River" so that section 2 of said enrolled bill as amended will read as follows: (Here follows section as amended.) (Vol. IV, 3510.)

(Several other amendments to the bill are carried in the resolution but the foregoing will suffice for our purpose, which is to give conclusive evidence that Congress does amend enrolled bills.)

The foregoing resolution was adopted, the bill so amended, enrolled and again signed and returned to the President. Another procedure of Congress for recalling and amending bills is shown in the following illustration:

Sec. 701. The two Houses had requested the return of a House bill from the President: The bill was returned and the following resolution offered and adopted: "That the message of the President and the bill be transmitted to the Senate with the request that the Senate reconsider its

action in passing said bill, in order that an amendment may be made to the same by striking out the word "director" and inserting the word "inspector."

The following day the Senate agreed to the resolution, complied with the request and returned same to the House where the amendments were agreed to and the bill again passed through its several stages, in the regular way. (Hinds IV, 3514, see also V, sec. 3516.)

Withdrawal of Papers

Sec. 702. The rules of parliamentary practice, which preclude the introduction of a second bill, whilst one is already pending with the same title or after one of the same title or tenor has been passed or rejected, sometimes makes it expedient that a bill should be withdrawn in the course of its progress in order to introduce a new one. The effect of this proceeding is, that a new bill may then be introduced in the same manner, as if the former had never been before the House.

Sec. 703. The usual reasons for the withdrawal of a bill are: When a bill is so defective or objectionable in point of form, or the proceedings in reference to it have been so irregular, that it should not be allowed to proceed further, when for various reasons it becomes expedient or desirable in the opinion of the author of the bill that it should be withdrawn.

Sec. 704. The withdrawal of a bill may take place, at any time, in the course of its progress, whenever informality is discovered, or the reasons become manifest, on account of which it is expedient or necessary to withdraw the bill.

Sec. 705. When a bill having been proceeded with, has been made the subject of an order for a particular day, the order is an order of the day, for that day, and when reached as such, the motion for withdrawal may be made, but in this case, as in the case of second and third reading or commitment, it is necessary, in the first place, that the unexecuted orders of that day should be discharged and

secondly, that any pending motion for proceeding with the order, should previously be withdrawn, and if not withdrawn, the withdrawal of a bill may be moved as an amendment to the pending motions. Motions to amend or any other motion may be withdrawn or modified by the mover at his pleasure before being proposed to the House and afterwards by leave of the House. If an amendment is withdrawn by the mover, either of his own authority or by leave of the House, it may be offered again by him, or renewed by some other member. (Cushing, Sec. 1310).

Sec. 706. Where there is objection to the withdrawal of a motion, bill or other paper it can only be done by the consent of a majority of those voting.

Action When Papers are Lost

Sec. 707. In parliamentary practice the **rule is general — and cannot be suspended — that it is not competent for either House or any of its committees to proceed to consider a bill, resolution, amendment or other paper not in its possession**; when, therefore, any papers are mislaid or lost which have been sent from the other branch; the clerk should be instructed to communicate by message with the other House notifying them of all facts and requesting a certified copy of the lost papers, this request should never for any reason be refused, but if the bill or other paper lost or mislaid, of the same House, the fact should be reported to the House and the clerk instructed to produce a certified copy of such paper before any action is taken thereon. See H. J. Nat. Cong. IX, pp. 521-523.

Request for Return of Bill

Sec. 708. Where a bill is sent from one House to the other by mistake or its return is desired for reconsideration or any other purpose, a motion should be made instructing the clerk to send a message to the other House requesting the return of such bill or other paper desired. It is customary for the receiving House to grant the request,

but it is not compulsory. (See S. J. 1st Sess. 25th Cong., p. 375.)

Sec. 709. When a message of the foregoing nature is read in the receiving House, one of its members should at once move that the request of the other House be acceded to or rejected and the action of the body should be forthwith communicated by message to the body making the request.

Printing, Enrolling, Signing and Certification of Bills

Sec. 710. The printing, enrolling, signing and certification of bills on passage is governed by the following rules of the Assembly and the law of the state and the constitution.

Signing of Bills

Sec. 711. The constitution of the state provides that the presiding officer of each House shall sign, publicly in the presence of the House over which he presides, while the same is in session and capable of transacting business (a quorum being present), all bills and joint resolutions passed by the General Assembly. (Sec. 17, Art. 11.)

Sec. 712. It is sometimes urged that this provision of the constitution is merely directory and not mandatory, however, most of the Ohio Assemblies in their practice have proceeded with the idea that it is mandatory and in most instances it is followed to the letter.

Printing Enrolled Bills

Sec. 713. The statutes of Ohio provide as follows: After passage and enrollment, five copies of each bill shall be printed on heavy linen ledger paper, and from the same type five thousand copies shall be printed on number one white book paper. Of the five copies one shall be used for enrolling purposes and of the five thousand copies thirty-three hundred shall be delivered promptly to the secretary of state, ten shall be delivered to each senator and representative and one to each state department, such printing shall be done under the supervision of the Clerk of the House in which the bill originated. (Sec. 66 G. C.)

When Bill May Be Enrolled in Printing or by Hand

Sec. 714. By joint resolution in which the emergency for so doing shall be set forth in full, the general assembly may order a bill enrolled in typewriting or by hand, but a bill so enrolled shall not be printed for the purpose of enrollment. Bills for typesetting and printing, but not the paper, shall be paid from the appropriations for the expenses of the General Assembly upon vouchers approved by the presiding officers of the two Houses, each for his respective House. (Sec. 67 G. C.)

715. The joint rules of the Assembly also provide for the signing of bills as follows: All bills and joint resolutions which shall have passed both Houses shall first be signed by the Speaker of the House of Representatives and then by the President of the Senate, the latter affixing the date thereto and delivering the same to the Clerk of the Senate, who shall deliver the bill as passed to the Governor. (Joint Assembly rule 19.)

Amending Bills to Meet Objections of Governor

Sec. 716. It is frequently the case that the executive approval or concurrence is withheld from a bill for reasons that could be removed by action of the Assembly. It very often occurs in Congress that the President sends for the author of a bill, before he disapproves it and points out his objections with the result that Congress recalls the bill and amends it to meet executive approval. The House occasionally amends to meet the wishes of the Senate and the Senate does likewise with the House, so there seems to be no good reason why this courtesy should not be extended to the chief executive, inasmuch as he is a part of the lawmaking power.

Sec. 717. In this way a good correspondence would be maintained between the assembly and the executive. In presenting and discussing this problem, attention should first be directed to one thing that may not be done, a vetoed bill cannot be amended. The constitution which supersedes

all rules and parliamentary law, provides the only action that may be taken on vetoed bills. "They may be passed notwithstanding the objections of the Governor." That is to say, the bill vetoed by the Governor may be passed over his objections.

Sec. 718. If a bill returned by the Governor were amended it could not be passed over his veto, because the amended bill would become a new bill and should be passed in the regular way.

Sec. 719. The only bill the Assembly can pass over the veto is the identical bill vetoed (without change). Therefore to amend a bill to satisfy the executive, action must be taken by the Assembly previous to the official act of the Governor in vetoing it.

Sec. 720. The constant practice of our National Congress for many years could be employed by the Ohio Assembly, however, under our rules it would be necessary to have unanimous consent or to suspend the joint rule to proceed along this plan.

Sec. 721. The first step is to introduce a joint resolution requesting the return of the bill from the Governor, which resolution should state the purpose of the recall. (If it be for correction, so state it, if it be for amendment, so state it.) The resolution should also state to which House the bill is to be returned, usually to the originating House.

Form of Resolution Amending Bill

Sec. 722. Form of resolution to be used for amending bill after it has been returned from the Governor: RESOLVED by the General Assembly of the state of Ohio, That the action of the Speaker of the House of Representatives and President of the Senate in the signing of the enrolled bill (here insert title and number) be rescinded and such officers are hereby requested and directed to vacate such signatures, and that in the reenrollment of said bill the following changes and amendments are hereby authorized. (Here insert matter to be stricken out or inserted.) All rules of the Assembly that stand in

the way of this action are hereby suspended. See Hinds Vol. IV, 351, 352, 353.)

Form of Resolution in Recalling from Governor

Sec. 723. RESOLVED, That the Governor is hereby requested to return to the Senate S. B. No. 218 (title) for the purpose of amendment. To avoid vitiating the bill and to allay controversy as to the regularity of this proceeding, the chair could proceed as follows: (after the adoption of the resolution.) He should announce "S. B. No. 218 is now before the House." It is proposed to amend it as follows (reading the amendments as contained in the resolution). "Is there objection?" (pausing for objections) the chair hears none. The bill is ordered so amended and reëngrossed by inserting amendments then:

Sec. 724. Chair: The clerk will read the bill the third time (after reading). The question is "Shall the bill pass as amended?" The clerk will call the roll. When passed it should be sent to the other House to be acted upon in the same manner. If acted upon favorably, it should be re-enrolled, signed and returned to the Governor. If objection should be made at any time to the foregoing procedure, a motion and question put would be necessary to amend and advance the bill.

Sec. 725. All the procedure on the bill as above set forth after the adoption of the resolution is not the practice of the National House, but is the writer's opinion of the proper procedure to make sure of the validity of the action.

This same result may be accomplished by a series of reconsiderations or by the introduction of a new bill. Under the head of amending enrolled bills found elsewhere in this manual, may be found illustrations of these methods as employed by Congress.

Amending by Reconsideration

Sec. 726. If the Assembly should prefer to amend the bill by a series of reconsiderations, then they should proceed as follows: When the bill is returned from the Gov-

error, pass a joint resolution requesting the presiding officers to cancel their signatures and requesting the body which last acted on the bill to reconsider its action and amend the bill, naming the amendments, for example, if the bill be a House bill, then the resolution should be in this form:

Sec. 727. Resolved, That the action of the Speaker of the House of Representatives and the President of the Senate in signing the enrolled bill (title and number) be rescinded, and that the Senate be requested to reconsider its action in passing said bill and amend same as follows: (here state amendments in full) Be it further resolved, That the rules of the Assembly be suspended to admit of this action (no doubt the suspension of rules will be necessary to admit the motion to reconsider, and this resolution will require unanimous consent or two-thirds vote.)

Sec. 728. When the foregoing resolution is received in the Senate the following procedure should take place if the resolution is acceptable, and adopted. A member should immediately move that the action recorded in the journal as to its engrossment, third reading and passage be reconsidered. Or he could do this: "I ask unanimous consent that the votes and orders by which the bill (naming number) was ordered to third reading, read the third time and passed, be reconsidered." If this request is granted the bill is open for amendments.

Sec. 729. The member should then propose to amend by offering the amendments contained in the resolution. When all amendments are made that are desired, the chair should then order the re-engrossment of the bill as amended, order its third reading and place it one passage if passed return to the other House where the action of the Senate should be concurred in, the bill enrolled, signed and sent to the Governor.

Errors in Announcing the Vote

Sec. 730. It is not often, but occasionally in the rush of business an error will be made by the Clerk in comput-

ing the vote. The error is afterward discovered (usually by the Clerk himself or one of his assistants, whose business it is to check up roll calls for mistakes.) If error is found the Clerk communicates such error to the Speaker, who notifies the House. Any error or mistake that occurs in passing a bill when discovered, no matter at what distance of time the discovery is made, makes the subsequent proceedings with reference to such bills null and void. The bill stands before the House for its action thereon precisely as if the vote thereon had been correctly announced when taken, or other action of body was correctly recorded.

Sec. 731. In Congress the House having ordered a bill to be engrossed, after a vote on an amendment had been declared and before it had been corrected, it was held in the House of Representatives that the proceedings commenced at that point and the House was entitled to a new vote on engrossment. (Cushing.)

Rejection of a Bill

Sec. 732. Opposition to a bill may be manifested in several ways, as by postponing the proceedings upon it to a day beyond the session, or by putting a negative upon all motions that are made to forward it in the regular order of business, or by a motion to reject, which is the general practice of the House of Commons, where the motion is sometimes made to reject and the bill be torn. (Cushing.)

Sec. 733. In general parliamentary law the motion to reject is admissible at any stage of the bill or at any interval in the progress of the bill. In our practice, however, it seems to be in order only after the first reading of the bill.

CHAPTER XIV

COMMITTEE OF WHOLE

Sec. 734. "This is but the House itself in another form, since the membership is identical in committee of the whole. The members may deliberate and speak their real sentiments when the House resolves into the committee of the whole." (Speaker Reed.)

Sec. 735. Committees of the whole house are composed of all the members and sit in the House while the House is sitting. There are many points of dissimilarity between ordinary committees and the committee of the whole. A committee of the whole besides being constituted of all the individual members, is also to be formed by an act of the House itself. It is, consequently, not competent for the members to assemble themselves together at the time appointed and to proceed as a committee; but the House must be regularly met and sitting at the time appointed, in order that it may then resolve itself into the committee of the whole, agreeably to its previous resolution.

Sec. 736. The order for the appointment of a committee of the whole, may be rescinded or discharged at any time after its adoption, in which case, the matter referred to its consideration immediately resumes its place which it would have occupied in the business of the House.

Sec. 737. A committee of the whole being usually appointed by a previous motion that the House will, on a certain future day or time, resolve itself into a committee of the whole for the consideration of the subject in question — when the day arrives and the House is sitting, the first step is for a motion to be made, that the order of the day for going into the committee of the whole be read. If no such motion is made, or if made and negatived, the

order drops; in which case, the reference of the subject to a committee of the whole remains a subsisting order of the House, to be carried into execution at such time as the House may think proper. The order being read the House may either drop it; discharge it; postpone it; or proceed with it. If the House does not think proper to proceed with the business at that time or to fix a future day for its consideration, the course is to let it drop without making any motion in reference to it. The business stands then precisely as if the House had resolved to refer the matter to committee and stopped there, without appointing a time for resolving into the committee of the whole." (Cushing.)

Forming Committee of Whole

Sec. 738. In forming the committee of the whole the Speaker or President leaves the chair, but not the hall, and appoints a chairman for the committee, if the House is not satisfied with the selection of the Speaker, the House may, as other committees elect its own chairman. The clerk of each House acts as clerk of the committee but keeps only such records of the proceedings as will assist the chairman in framing his report to the House. The proceedings in the committee are not made a part of the journal. Nothing done in the committee goes into the journal except the report of the committee authorized by them through their chairman.

Purpose of Committee of Whole

Sec. 739. The real purpose of considering bills in committee of the whole is for amendment. The universal practice of parliamentary bodies in England and the United States (Ohio possibly being the only exception) is that a bill, after it has been read a second time shall be taken up by sections for the purpose of amendment, and each section passed upon, and amendments thereto, offered, discussed, considered and voted upon. This action, of course, always terminates, in fact precludes general debate, as it is called.

Sec. 740. Whenever it is agreed to take up a bill for amendment and consider same by sections, read the sections from first to last consecutively, and call for amendments to each section as it is reached. That will terminate general debate. Then if it be desired to put a limitation on the debate on amendments, respectively, as they are presented, the House may do that of course by adopting a three, five or ten-minute rule as may be agreed upon. In those state legislatures that do not use the committee of the whole, bills are read for amendment on second reading. Amendments are not permissible in general parliamentary practice, after a bill has been read a third time that is, after it has been engrossed, but in the Ohio practice bills are amended after third reading.

Sec. 741. When a bill has been gone through with by sections, it is then in order to offer amendments to the bill generally, that is, to any part of it. It is also open again for amendment when reported back to the House until such time as the question on engrossing and third reading and passage is taken.

Committee of Whole — American Parliamentary Practice

Sec. 742. The yeas and nays may not be taken in the committee of whole, not even to establish a quorum, that should be done by count. (Dawson.) It is not in order for the committee of the whole to arrange for a yea and nay vote to be taken in the House.

Sec. 743. A request for unanimous consent may not be entertained after the House has voted to go into the committee of the whole.

Sec. 744. After the House has voted to go into the committee of the whole the chair declines to entertain a motion to adjourn.

Sec. 745. When several bills are before the committee it may on motion put and carried determine an order for taking up the business before it.

Sec. 746. In considering bills on its calendar, the committee of the whole may on motion made and carried, take up a bill out of its order.

Sec. 747. Except in cases wherein the rules make specific provision therefor, a motion is not in order in the House to fix the order in which business shall be taken up on the calendar of the committee of the whole.

Sec. 748. When the House agrees to the motion to go into the committee of the whole to consider a particular bill, it may not consider a different bill.

Sec. 749. A bill unfinished at a session of the committee of the whole is again in order when the House again resolves into the committee.

Sec. 750. The rules and proceedings in the House or Senate are observed in the committee of the whole so far as they are applicable.

Sec. 751. Appropriation bills are considered in a committee of the whole by paragraphs, all other bills by sections.

Sec. 752. When, in considering a bill by paragraphs or sections, the committee of the whole has passed a particular paragraph or section, it is not in order to return thereto.

Sec. 753. In committee of the whole amendments are not in order, until general debate has been closed.

Sec. 754. In committee of the whole no member desiring to participate in general debate can do so after reading of the bill by sections or paragraphs or amendment begins.

Sec. 755. In committee of the whole a motion to amend a bill has precedence over a motion to rise and report it.

Sec. 756. Under a rule limiting debate the right to explain or oppose an amendment has precedence over a motion to amend it.

Sec. 757. A bill may not be laid aside with a favorable recommendation in committee of the whole until the reading for amendment is completed.

Sec. 758. A motion that the committee of the whole report a bill with the recommendation that it be referred may not be made until it has been read for amendments.

Sec. 759. The motion to lay a bill aside in committee of the whole, is not debatable.

Sec. 760. A bill which is under consideration in committee of the whole, may not be laid aside, except to be reported to the House.

Sec. 761. A motion that a bill be reported with a recommendation to postpone is in order in the committee of the whole.

Sec. 762. A motion to report a bill with the recommendation that it do pass, has precedence of a motion recommending postponement. In committee of the whole, the motion to rise and report, has precedence of the motion to take up another bill.

Sec. 763. In committee of the whole the motion to rise and report is not debatable.

Sec. 764. The simple motion that the committee rise has precedence of the motion to amend.

Sec. 765. Bills in committee of the whole may be reported with the recommendation that they be postponed or referred, and the latter recommendation has precedence over the recommendation that the bill do pass.

Sec. 766. The motion in committee of the whole, to lay aside a bill with a favorable recommendation is not amendable but may be displaced by a preferential motion.

Sec. 767. In committee of the whole the motion to report with a favorable recommendation, takes precedence of the motion to report with an unfavorable recommendation.

Sec. 768. In committee of the whole, a negative decision on a motion to report is not equivalent to a decision to report unfavorably.

Sec. 769. In a committee of the whole a motion to report a bill with the recommendation that it lie on the table has precedence of motions recommending postponement or recommitment.

Sec. 770. Before general debate has been closed in the committee of the whole it is not in order to move to report a bill with the recommendation that it be laid on the table.

Sec. 771. The motion to report a bill with a favorable recommendation being decided in the negative in the committee of the whole, the bill remains in its place on the calendar.

Sec. 772. Reading a bill for amendments in committee of the whole, being concluded, motions ordering it to be reported are not debatable.

Sec. 773. A message being announced while the committee of the whole is in session, the committee rises informally, and the Speaker takes the chair to receive it.

Quorum in Committee of Whole

American Parliamentary Practice

Sec. 774. **Rule of National House.** — Whenever a committee of the whole finds itself without a quorum, which consists of **one hundred**, the chairman shall cause the roll to be called, and thereupon the committee shall rise, and the chairman shall report the names of the absentees to the House, which shall be entered upon the journal; but if on such call a quorum shall appear, the committee shall thereupon resume its sitting without further order from the House. (Rule 22, Par. 2.) The committee of the whole having risen because a quorum had failed, the bills that had been laid aside to be reported remained in the committee until the next occasion when the committee arose without question as to a quorum. The fact that the vote whereby the committee rose did not show a quorum, is held not sufficient to prevent the reception of the report of the committee of the whole.

A quorum is not required on a motion that the committee arise. On failure of a quorum the roll is called but once.

Debate in Committee of Whole

Sec. 775. The motion to close general debate in committee of the whole is made pending the motion that the House resolve itself into committee, and though not debatable, the previous question is sometimes asked to prevent attempts at amendment of the motion. The motion to close general debate is not permissible in committee of the whole.

Sec. 776. Form of motion or resolution to close general debate and resolve into committee: The hour of closing debate in the committee of the whole is often fixed by unanimous consent, but if objection is made a motion or resolution similar to the following is moved: Resolved, That the House resolve itself into the committee of the whole (here state time) for the consideration of (title of bill) upon which debate shall cease (here state time).

Sec. 777. The motion in the House to limit debate in committee must apply to the entire bill and not a part of it.

Sec. 778. When the House has fixed the time for debate in the committee, the committee cannot extend it even by unanimous consent.

Sec. 779. The time occupied by reading a bill in committee of the whole does not come out of the time allowed for general debate.

Sec. 780. Amendments are not offered in committee of the whole until general debate is closed. (In the National House the closing of general debate in committee does not prevent debate on amendments. It is provided for in what is known as the five-minute rule.)

Debate on Amendments, Committee of Whole

Sec. 781. Section 5, Rule XXIII reads in part as follows: "When general debate is closed by order of the House, in committee of the whole, any member shall be allowed five minutes to explain any amendment he may offer after which the member who shall first obtain the floor shall be allowed five minutes in opposition to it, and

there shall be no further debate upon it. But the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment, and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by unanimous consent of the committee.

Sec. 782. A motion to close five-minute debate is not in order until after one speech of five minutes has been made.

Sec. 783. The committee of the whole may, after five-minute debate has begun, close debate on the section, paragraph or pending amendments but this does not preclude further amendments. (This ruling is based on a rule of the National House.)

Sec. 784. A member who has occupied five minutes on a **pro forma** amendment, may not, by making another **pro forma** amendment continue his time.

Sec. 785. In debate in committee of the whole members must confine themselves to the pending subject. Hinds Vol. VI.

Sec. 786. Unless otherwise provided by rule the quorum of the committee of the whole is the same as in the House.

Sec. 787. The form of going from the House into the committee of the whole is for the Speaker on motion that the House do now resolve itself into the committee of the whole to consider (naming matter to be considered). If decided in the affirmative, the Speaker appoints a chairman and leaves the chair and takes a seat with the members. The chairman takes the Speaker's chair.

Sec. 788. When a bill is reported from the committee of the whole with amendments, it is in order to submit additional amendments, but the question must first be put on the amendments reported from committee.

Sec. 789. Amendments introduced and rejected in the committee of the whole are not reported to the House.

Sec. 790. The fact that a proposition has been rejected by the committee of the whole does not prevent it from

being offered as an amendment, when the subject comes up in the House.

Sec. 791. Amendments reported from the committee of the whole should be voted on in the order in which they are reported although they may be inconsistent one with another.

Sec. 792. It is the practice for the House, by unanimous consent, to act on all the amendments to a bill reported from the committee of the whole, but it is the right of any member to demand a separate vote on any amendment.

Sec. 793. The right to debate and amend a bill reported from the committee of the whole depends upon the will of the House. The recommendation of the committee of the whole being before the House, the motion is considered as pending without being offered from the floor.

Sec. 794. The committee of the whole, like any other committee, may adopt and report an amendment in the nature of a substitute.

Sec. 795. Paragraphs ruled out of order in the committee of the whole on points of order are not reported to the House.

Sec. 796. When the committee of the whole makes a recommendation in excess of its powers, and it is ruled out, the report and bill stand recommitted to the committee of the whole.

Sec. 797. If the committee of the whole rises because a quorum has failed the bills that have been laid aside remain in the committee until the next meeting.

Sec. 798. The fact that the vote whereby the committee of the whole rises without a quorum is not sufficient to prevent the reception of the report of the committee by the House.

The Speaker can not review any matter that occurred in the committee of the whole, not even the failure of a quorum, unless it be mentioned in the report to the House.

Sec. 799. A quorum is not required on a motion that the committee of the whole rise, but if the point of order of no quorum is raised, it should immediately arise. But

in the House the report of the committee could not be made until a quorum was present in the House.

Sec. 800. It is not in order in the House to move to postpone or otherwise consider a bill which is still in committee of the whole.

Sec. 801. A bill presumed to have been read in the committee of the whole and reported favorably therefrom is not read in full again when acted on in the House.

Sec. 802. When a bill is reported from the committee of the whole, the Speaker must assume that it has passed through all the stages necessary for the report.

Sec. 803. A motion to discharge the committee of the whole from consideration of a bill is not privileged against a demand for the regular order of business.

Sec. 804. When the committee of the whole is discharged from consideration of a bill, the House, in lieu of a report from the chairman accepts the minutes of the clerk as evidence of amendments agreed to. (Hinds.) The committee of the whole may not adjourn as other committees, but if their business is unfinished they rise; on motion, and the House is resumed, and the chairman reports that the committee of the whole have, according to orders had under consideration the bill (Here follows number and title), and have made progress therein; but not having had time to go through the same, have directed him to ask leave to sit again. Whereupon a motion is put on their having leave, and on the time the House will again resolve itself into the committee. But if they have gone through the matter referred to them, a member moves that the committee rise, and the chairman report their proceedings to the House; which being resolved the chairman informs him that the committee have gone through the business referred them, and that he is ready to make report when the House shall think proper to receive it, which is usually received at once, and is therefore before the House for action. The Speaker recognizes only reports from the committee chairman. (Jefferson.)

Sec. 805. A matter alleged to have arisen therein but not reported may not be brought to the attention of the House, even on the claim that a question of privilege is involved.

Sec. 806. The committee of the whole, like any other committee may amend a proposition, either by an ordinary amendment, or by a substitute but such amendments must be reported to the House for its action.

Proceeding in United States Senate

Sec. 807. The proceedings in the United States Senate are much different from those of the House of Representatives, in fact from those of any other parliamentary body. The proceedings in the Senate are AS IN COMMITTEE OF THE WHOLE, or what Mr. Jefferson calls "QUASI-COMMITTEE" and discusses it as follows:

Quasi Committee

Sec. 808. "If on motion and question a bill be not committed, or if no proposition for commitment be made, then the proceedings in the United States Senate and in Parliament are totally different. The proceedings in the Senate as in committee of the whole, or in quasi-committee is precisely as in a real committee of the whole, taking no questions but on amendments. When through the whole, they consider the quasi-committee as arisen, the House is resumed without any motion, question or resolution to that effect, and the President reports that the House acting as in a committee of the whole, have had under consideration the bill (stating title) and have made amendments, which he will now report to the House.

Sec. 809. The bill is then before them, as it would have been if reported from a committee, and the questions are regularly to be put again on every amendment, which being gone through with, the President pauses a moment, to give time to the House to propose amendments to the body of bill, and, when through puts the question whether it shall be read a third time." (Jefferson.)

Sec. 810. In the practice of the Senate as in the committee of the whole, it is the custom for the presiding officer to ask if any senator desires a separate vote taken upon any amendment. If not, the vote is taken upon the amendments together. If there are reservations, the vote is first taken on all others, and then separate votes are taken on all the amendments reserved. After progress in amending a measure in quasi-committee, a motion may be made to refer it to a special committee, and, if such motion prevails, it is equivalent in effect to a motion that the committee rise, that the Senate resume itself, discharge the committee of the whole, and refer the bill to a special committee.

In that case the amendments already made, fall. But if the motion falls the quasi-committee stands in **status quo**. In resolving into the quasi-committee the President does not leave the chair and the motions to adjourn, postpone and commit are in order. In fact, it is in order to do anything that the Senate may wish to do.

American Parliamentary Practice

Sec. 811. The committee of the whole is but a committee of the House, though a large one, the House may refer a subject to a committee of the whole as well as to a standing committee.

Sec. 812. The committee of the whole may not authorize or appoint a committee nor can it grant authority to a standing committee to amend its report or order the reprint of a bill.

Sec. 813. The committee of the whole has no authority to modify an order of the House.

Sec. 814. In committee of the whole a rule of procedure prescribed by the House may not be set aside.

Sec. 815. The committee of the whole may report a bill with the recommendation that it be committed or re-committed to a standing committee with certain instructions.

Sec. 816. The motions to reconsider, adjourn and for the previous question, to lay on the table and the simple

motion to commit are never in order in the committee of the whole.

Action When There is No Quorum in Committee of Whole

Sec. 817. If at any time when either House is in committee of the whole the point of order is raised, or if it is disclosed in any other way that a quorum is not present, the chairman should direct the clerk to establish that fact by count. If there should not be a quorum, the President or Speaker, as the case may be should immediately resume the chair and the chairman of the committee should report thus: "The committee of the whole having had under consideration the bill (state number and title) and after proceeding for some time with the consideration of the same, find that a quorum is not present; that fact I herewith report to the House."

Sec. 818. Some member should demand a call of the House. If on such roll call a quorum is found to be present, the chair should then call the chairman of the committee to take his place and the business of the committee is resumed where it was left off. If a quorum does not appear on roll-call, then the committee does not resume until a quorum appears.

CHAPTER XV

PHRASEOLOGY AND PRACTICE

Demanding Yea and Nay Vote

Sec. 819. A yea and nay vote must be demanded by two senators or two members of the House, and the demand must be made before the House or Senate divide. The proper time to demand a yea and nay vote is immediately following the statement of the question by the chair as found in the following form:

President: The question is **"Shall the amendment be agreed to?"**

A Senator: Mr. President: **I demand a yea and nay vote on this question.**

Chair: Is the demand regularly made? (Members demanding a yea and nay vote should either stand or raise their right hands so the chair may count them). If the demand is made by two members, the chair states the question and continues: "Those in favor of the amendment will vote aye; those opposed will vote no, as your name is called. The clerk will call the roll." A yea and nay vote is frequently unnecessarily demanded. **It should never be called for except where the matter under consideration is of such importance that a record vote is desired.**

Sec. 820. If a member merely desires to be certain of the **sense of the House**, he may obtain the same result **by demanding a division of the House**. Of course, in a division, the individual vote of members is not entered in the record. The calling of the roll, particularly in the House, requires much of the time of the House, frequently several hours are consumed in this way during the day's session.

Requesting a Division of the House

Sec. 821. Chair: **The question is "Shall the amendment be agreed to?"**

A Member: Mr. Speaker, I request a division of the House on this question.

Chair: The member from.....county requests a division of the House on this question—**as many as are in favor of the amendment will rise and remain standing until counted.** (The speaker and the clerk both count the members standing.) After the count the clerk announces the result obtained by him, to the chair.

Chair: Upon this question thirty-two members have voted in the affirmative. The ayes will be seated and the noes will please rise and be counted. The members are counted as before.

Chair: Upon agreeing to this amendment the ayes are thirty-two, the noes are forty-eight. So the amendment is not agreed to.

The Regular Form of Putting Question and Taking Vote by Sound of Voices

Sec. 822. Chair: The question is on the motion of the senator from to recess for one hour—as many of you as favor recessing for one hour say aye (after pause for vote). Those of contrary opinions will say no—the chair is in doubt (at this point it is customary to ask for a division. If the chair does not express doubt, but merely hesitates or manifests in any way that he is in doubt—a request for a division is in order any time before he announces his judgment of the vote and even after.

When a Question Contains More than One Proposition and a Division and Separate Vote on Each Division Is Desired

Sec. 823. Senator: I request a division of the question and the vote be taken on each division separately.

Chair: The senator from requests a division of the question, and the vote be taken on each division separately. The chair then divides the question and reports to the House exactly how he has made the division.

Chair: The clerk will read the first division. (After reading.)

Chair: Will the Senate agree to the first division. (Putting question.)

Chair: The first division is agreed to. (The other divisions involved are taken up in regular succession until all are acted upon by the body in the same manner.)

Chair: The question now is on agreeing to the amendment in its entirety.

Interruptions in Debate

Sec. 824. A Senator: Mr. President: Will the gentleman yield to a question?

President: Does the senator from county yield for a question, or consent to be interrupted for a question?

Senator: I do, or negatively, I decline to yield at this time.

General Forms for Putting Questions Applying to Bills, Reports, Amendments, Resolutions, Motions, Etc.

Sec. 825. The Chair: As many as are in favor of will say aye (pause for vote). Those of a contrary opinion will say no, the ayes have it, and H. B. No. is passed, or lost; S. B. is concurred in, or not concurred in; H. J. R. is adopted, or not adopted; S. J. R. is concurred in, or not concurred in, resolution is adopted or agreed to, not adopted or disagreed to.

Motions prevailed or are agreed to; amendments adopted or agreed to, or not adopted or disagreed to.

Reports adopted or agreed to or not adopted or not agreed to.

Conference committee reports, agreed to or not agreed to.

Amendments made in committee of the whole, concurred in or not concurred in.

Amendments of one House to the bill or resolution or amendment of the other, concurred in, agreed to, or not concurred in or disagreed to.

Appeals are taken from decision of the chair, these may be well taken, sustained, not well taken or overruled.

Decision of the chair may stand or be sustained.

When the Senate Is Equally Divided and the Lieutenant Governor Casts His Vote

Sec. 826. President: Gentlemen, the result of the roll call shows the Senate equally divided, the President of the Senate declares this bill or other proposition passed, agreed to, or not passed, not agreed to, depending upon which side he casts his vote.

Appeal

Sec. 827. The presiding officers having held the point of order to be well taken or having overruled same;

A Member: Mr. Speaker: I appeal from the decision of the chair.

Chair: The member from county appeals from the decision of the chair. At this point those agreeing with the chair could stop further proceedings by a motion to lay the appeal on the table. If laid on the table the chair is sustained.

The question is "Shall the decision of the chair stand as the judgment of the House?" (After the vote.)

Sec. 828. Chair: The House sustains (or overrules) the decision of the chair. If sustained, the decision of the Speaker stands as the judgment of the House.

Substitution of Bills

Sec. 829. When a bill is received from the other branch of the Assembly by message and a bill identical

therewith is on the calendar for third reading in the receiving House, the bill received may be substituted for the bill on the calendar, providing the motion for such substitution is made at the time the bill is received and read, and is sustained by a majority of those elected.

Substituting a Bill of One House for a Bill of the Other

Sec. 830. House Bill No. 526 is reached on the calendar. The clerk then announces the number, title and author of the bill. A member desires to substitute a senate bill for this House bill that it may be considered at once. Before the bill is read the third time he should arise and address chair.

Member: Mr. President (or Speaker as the case may be): I ask unanimous consent that S. B. No. 48 be substituted for this H. B. No. 526, it is practically on the same subject and is now on the calendar and may be found on page 6 of the calendar for today.

Chair: Is there objection? The chair hears none. There being no objection the clerk is ordered to read the bill a third time and the House proceeds to its consideration, amendment and passage in lieu of the house bill.

Member: Mr. President. I move that House Bill No. 526 on this same subject be indefinitely postponed. (This is usually done without objection.) This latter motion should be made immediately after the Speaker announces the passage of the Senate bill.

Defeating Unanimous Consent

Sec. 831. It sometimes happens that there is objection to giving unanimous consent. **Just one member objecting defeats unanimous consent**, and the member would then be forced to adopt some other means to accomplish his purpose so his next best move would be to get recognition from the chair and put his request in the form of a motion to suspend the rules.

Reporting a Bill for Change of Reference

Sec. 832. A Senator. Mr. President: I desire unanimous consent to make a report out of order from the committee on the purpose of the report being (state purpose).

Chair: Is there objection? (pausing a moment.) The chair hears none and it is so ordered. The senator from county will send his report to the clerk's desk and the clerk will read the same.

Form of Report

Sec. 833. The committee on having referred to it for consideration H. B. No. (title) asks that the committee be discharged from further consideration of said bill, and the bill be referred to the committee on

Chair: Is the report of the committee agreed to (after the vote).

Sec. 834. The report is agreed to. It is ordered that the committee on be discharged from further consideration of H. B. No. and the same is ordered referred to the committee on

Raising a Point of Order

Sec. 835. A member: Mr. Speaker: I rise to a question of order.

Speaker: The gentleman will state the point of order.

Member should state his point of order, and if a rule is involved, he should cite the rule, giving number, after the point of order has been stated.

Chair: The chair thinks the point of order is well taken, or not well taken. The point of order is overruled, or the chair submits the point of order for the decision of the House (putting question). The House then decides and the decision of the House stands as the ruling of the Speaker.

Special Order

Sec. 836. A member: Mr. Speaker: I move that (naming bill by number) be made the special order for (naming day and hour) or

Mr. Speaker: I ask unanimous consent to make (naming bill and the hour and day) a special order.

Chair: The gentleman from requests unanimous consent, etc. Is there objection? (after pause.) The chair hears none, there being no objection, it is so ordered.

Parliamentary Inquiry

Sec. 837. Member: Mr. Speaker: I rise for a parliamentary inquiry.

Chair: The gentleman will state his question.

Member: What is the pending question and its exact status? A parliamentary inquiry is always in order, except it is made for dilatory purposes. It is not debatable or subject to any other motion. It is in the nature of a privileged motion. Whenever a member is uncertain about the nature of the pending business, or as to the effect of a motion or desires to learn the proper motion to make to attain a certain result, it is his right to inquire of the chair. If, however, the nature of his query is such as might involve a question of order, the chair may decline to answer. So if the query is likely to cause dispute and thereby call for a decision from the Speaker, it would be courteous for the member to go to the Speaker and ask the question privately and thus prevent embarrassment to the chair that might otherwise result.

Third Reading and Passing a Bill

Sec. 838. When the presiding officer takes the chair on any day after prayer and the reading of the journal, the rules provide that each body shall proceed to the orders of the day, which are printed in the calendar. Except on Mondays, Fridays and Saturdays, the first order of business on the calendar is bills for third reading.

Chair: Bills for third reading, the clerk will read the first bill on the calendar. The clerk then reads the bill.

Chair: Third reading of the bill. The question is "Shall the bill pass?" At this time members may offer amendments.

A Member: I move to amend.

Chair: The gentleman from moves to amend as follows:

Clerk. Having received the amendment carried to him by a page proceeds to read same. (After reading.)

Chair: "Will the House agree to the amendment (stating same.) As many of you as favor the amendment will say aye, those of you who are opposed will say no." (If the affirmative prevail.)

Chair: The amendment is agreed to. The question recurs "Shall the bill pass?" Other amendments may be offered so long as the question is pending on passage. (If other amendments are not offered.)

Chair: The question recurring "Shall the bill pass?" The clerk will call the roll, those of you who favor the bill will vote aye, those opposed will vote no, as your names are called, the clerk will call the roll—the roll call cannot be interrupted for any purpose. (After the roll is started.)

Clerk. Addressing Chair—Mr. Speaker: Yeas 63, nays 35.

Chair: Yeas 63, nays 35. The bill having received a constitutional majority is passed entitled "An act (the clerk here reads title).

Chair: Is the title agreed to? If no objection is made. The title is agreed to. The clerk will read the next bill. If the title is to be changed it should be amended at this time.

Requesting Unanimous Consent

Sec. 839. A request for unanimous consent to introduce and consider a bill is in effect a request to suspend the order of business temporarily, **a demand for the regular order may be made at any time, and is equivalent to an objection.** It is the unwritten rule in Con-

gress that the name of a member objecting to unanimous consent is not entered in the journal. The giving of unanimous consent waives any requirement as to reference to committee. An objection to unanimous consent cannot be withdrawn, because it is effective when it happens. The matter may, however, be brought up at another time. Neither the House nor Senate have rules relative to the withdrawal of papers, except motions, this may be done by unanimous consent.

Call of House

Sec. 840. A call of the House or Senate is usually demanded when any important matter is to be voted upon and it is apparent that a quorum is not present. There are two ways in our practice of procuring a call of the House.

Form

Sec. 841. Member. Mr. Speaker: I suggest the absence of a quorum.

Speaker: The gentleman from county suggests the absence of a quorum. The sergeant-at-arms will remove all persons from the enclosure where members are seated. Those on the right will please rise and be counted. Then he should count those on the opposite side. If this procedure be objected to by any three members, the chair should immediately direct a call of the House. However, if the only object is to be sure of the presence of a quorum this procedure is usually satisfactory. It is the practice of Congress.

Several members: I demand a call of the House.

Chair: (Noting that a sufficient number make the demand) A call of the House has been regularly demanded. The sergeant-at-arms will close all doors and permit no member to leave the Hall during the call of the House. He will also dispatch his messengers for absentees. The clerk will call the roll.

Sec. 842. In a call of the House the name of the members are called alphabetically by surname. If after

a roll call it is found a quorum is not present, or a sufficient number of members to transact the business under consideration, the chair may order or any member may request that the names of those not voting be called again. When a quorum is present, a motion is in order to dispense with the proceedings under the call.

Member: I move that further proceedings under the call be dispensed with.

Chair. Puts question, if carried by the body, proceeds with the business interrupted by the call.

Call of the House

Sec. 843. The purpose of the call of the House is to establish a quorum. The constitution provides when a yea and nay vote discloses the absence of a quorum there are but two motions in order, one for a call of the House and the other to adjourn. It is never in order to interrupt a roll call. A motion to recess is not in order during a call of the House — during proceedings under the call no motion is in order, except to adjourn and dispense with proceedings under the call or other motions with reference to the call. An appeal from the decision of the chair is in order and may be entertained during the proceedings to secure the attendance of a quorum.

Sec. 844. Under the call of the House it is the duty of the sergeant-at-arms to detain all members present and bring in absentees. It is not the right of the sergeant-at-arms to permit any member to leave the chamber under a call and members should not request him to permit them to do so. If they of necessity must leave they should make the request of the chair. (Hinds.)

Motion to Reconsider

Sec. 845. The motion to reconsider cannot be put to the question unless the bill or papers upon which the motion is based, is in possession of the House wherein the motion is made.

A motion to reconsider a bill or resolution should not be made until after the member has ascertained where the bill or resolution may be. This information may always be procured at the clerk's desk. If on investigation he finds that the papers are still in possession of his branch of the assembly his motion should be in this form if he desires immediate consideration.

Form

Sec. 846. Mr. President or Speaker (as the case may be). I move to reconsider the vote whereby the House (or Senate as the case may be) refused or passed (give number of bill).

Chair: Inquiring of the clerk, "Are the papers in possession of the House?" If the answer is in the affirmative, the chair puts the question and if decided in the affirmative, it is again before the House for consideration the same as if it had never been acted upon. In other words, open to debate and amendment. If objectionable amendments were placed in the bill on the previous consideration, they may now be reconsidered and amended or removed from the bill. If, however, a member should find that the papers have been sent to the other body his motion should be:

Member: Mr Speaker (or President as the case may be). I move that the vote whereby (giving number of bill) was lost or passed be reconsidered and that this motion remain pending and be printed in the journal and in the calendar and that the clerk be instructed to ask the House or Senate (as the case may be) for the return of said bill.

Requests for Return of Bills

Sec. 847. **Sometimes Refused.** — These requests are sometimes refused, but the common practice has been to accede to such request. When such requests come and are reported to the body by the clerk, a motion should at once be made that the request be, or be not acceded to.

Upon the return of the papers the chair at a convenient time lays before the body the paper and the question

is immediately put on the reconsideration and is proceeded with to its final conclusion. If the vote is negated it is at once returned to the body which returned it. A bill or resolution recalled from the other body when returned, should be restored to the stage of progress it occupied when recalled. In other words, if the bill were taken from committee or off the calendar it should be again placed on the calendar or returned to the committee, as the case may be, and the journal should show that the progress of the bill had been temporarily interrupted by recall.

The last form is the one to use, except directing clerk to recall bill, when a member desires to reconsider, but merely wishes to have his motion pending, before the body but does not desire immediate consideration of the question to be reconsidered.

How to Expedite the Passage of a Bill by Suspension of Rules — Old Form

Sec. 848. Sometimes members have bills that they think should be introduced and enacted into law without delay. In cases of this kind they should proceed in one of the following ways; both procedures are known as passing bills under suspension of the rules which requires unanimous consent or a three-fourths vote of those voting, a quorum being present.

If the member has introduced his bill in the regular order under "introduction of bills" he should as soon as the chair announces "First reading of bill" make the following motion: "Mr. Speaker, or President (as the case may be), I move that the rules be suspended and this bill (stating number) be now read the second time by its title." If the motion prevails as soon as the Speaker announces second reading of the bill and before suggestions of commitment. He should make the following motion: "Mr. Speaker (or President, as the case may be), I move that the rules be suspended and this bill (stating number) be engrossed at the clerk's desk and read the third time now and placed on its passage." If this motion prevails the bill is considered

as engrossed and it is read and placed before the body for consideration and passage. If the bill is passed; the next move of the member, if it be a House bill is to visit the Senate and arrange with a senator, usually the senator representing his district, to take care of the bill when it reaches the Senate.

Sec. 849. When the President hands the bill down and it is read the first time, the senator in charge should at once move a suspension of the rules, and renew the same motion immediately after second reading, for the third reading. The bill being engrossed before leaving the House, reference in the last motion to engrossment is unnecessary, unless the bill is amended in the Senate. If it has been amended then the order for re-engrossment is necessary.

If the bill is passed then either the senator, or the member introducing the bill should introduce a joint resolution providing for the enrollment of the bill in typewriting.

The other procedure refers to the suspension of the rules by unanimous consent is simpler, easier to remember, and accomplishes the same result, without making so many motions. It is the plan in constant use in our National Congress. A member has his bill ready to introduce, whenever he can get recognition by the chair, he should make the following request which in effect is a motion.

Expediting Passage of Bill New Form

Sec. 850. Mr. Speaker (or President, as the case may be), I request unanimous consent to suspend the rules to enable me to introduce a bill for immediate consideration and passage. If there be no objection unanimous consent is granted, which in effect suspends all rules that stand in the way of receiving the bill and passing it, without further motions.

Sec. 851. The theory involved in the unanimous consent agreement is that it suspends all rules that would prevent the carrying into full effect the request which is granted by the House. Everything, however, depends upon the

form of the motion or request, which should always take the form of the thing he desires to be accomplished and it should be stated precisely and clearly and without effort to deceive or mislead the body.

Sec. 852. A member may desire that his bill be read the second time and placed on the calendar. Then he should make his request in this form: "I request unanimous consent to suspend the rules to enable me to introduce a bill" and have it placed on the calendar in regular order, or wherever he may desire, say, second reading. If the request is granted the bill could be introduced and after first reading, the chair could then order it engrossed and placed on the calendar in place named by member.

Sec. 853. If it should be a resolution upon which he desired immediate action, he would form his request thus: "I desire unanimous consent to suspend the rules to enable me to introduce a resolution for immediate consideration." If granted, the resolution could be presented and acted upon without being laid over one day.

Effect of Unanimous Consent

Sec. 854. In his rules, former Speaker Reed says on the subject of unanimous consent, "By unanimous consent the Assembly may do anything, which it is competent to do, and that notwithstanding any rule or regulation or any provision of parliamentary law to the contrary." Rule 24.

How to Reconsider a Vote on Passage of Bill, Upon Which the Time Limit for Reconsideration Has Expired, and the Bill Has Been Sent to the Other House

Sec. 855. Mr. President: (or Speaker, as the case may be) I move that the House (or Senate, as the case may be) be requested to return to this House the bill (stating number and title). After the question is put on this motion by the chair, if it is agreed to, the clerk should immediately send a message requesting a return of the bill

and the member should then proceed in this manner: "Mr. President (or Speaker): I ask unanimous consent to suspend the rules to enable me to enter a motion to pend, on the journal, to reconsider the vote whereby the bill just recalled from the Senate, passed this House, the time for reconsideration having expired.

How Speaker Objects

The chair states the request and asks if there be objection, (one objection defeats the request). **The Speaker being a member of the House has as much right to object as any other member, but he does not object by declaring his objection, but usually registers his objection by refusing to recognize the member making the request,** thus, after the request is made instead of asking if there be objection, he would say **the Speaker refuses to recognize the gentleman for that purpose.** If the request is put to the question and there be no objection the chair announces: "The chair hears no objection, the motion to reconsider will be received and entered on the journal."

Meaning of Informally Passed

Sec. 856. Where the notation informally passed occur under a title on the calendar, it means that such bill has been called up for consideration and action on same was deferred.

Introduction of Bill for Immediate Consideration and Passage Under Suspension of Rules by Unanimous Consent — New Form

Sec. 857. It sometimes occurs that it is expedient, or there is a demand for the immediate and prompt enactment of a law to meet some peculiar condition that has arisen, and therefore it is desired to avoid the usual delay in regular procedure in passing bills. This may be accomplished in two ways: First, by the usual practice of the House, by several motions to suspend the rules and advance

the bill through its several stages as explained elsewhere, or by the plan of Congress which is a simple parliamentary way and not so difficult to remember.

Sec. 858. The member who wishes to expedite the passage of a bill, should rise and seek the recognition of the chair. If recognized he should say, Mr. Speaker or President (as the case may be) **I request unanimous consent to suspend the rules to permit me to introduce a bill for immediate consideration and passage.** If there be no objections this request is granted, and the chair should order the bill sent to the clerk and that officer should read the bill fully, carefully and distinctly once for the information of the members. Under this procedure, the rules being dispensed with, no other reading of the bill is necessary because the constitutional requirement to read three times is dispensed with as well as the requirement to read on three different days. When the reading is completed the chair should next put the question on engrossment; if decided in the affirmative the bill immediately goes upon its passage and the chair should state the question-without motion and order the vote on same. As stated above, this procedure is within parliamentary law and is not a violation of the constitutional rules. It is more sensible than the old cumbersome, and we might say, incomprehensible practice of both Houses for many years past, that is, moving to suspend the rules for its advancement to each successive stage. See Sec. 956 this manual.

Motions to Expedite Bill

Sec. 859. It sometimes happens that a member has an important bill to introduce and one that should be enacted at a very early date. The following forms will explain the manner of procedure practiced in the assembly to hurry the bill along. The obstacles to be overcome are the rules of the assembly and the constitution. The first form is an illustration of the usual procedure in both House and Senate.

Member. Mr. Speaker: I ask leave to introduce a bill out of order.

Chair: Is there objection? (After a pause.) The chair hears none and the request is granted. The member will send the bill to the desk and the clerk will read it; after reading by clerk.

Chair. First reading of the bill.

Member. Mr. Speaker: I move the suspension of the constitutional rules requiring bills to be fully read on three different days and this bill be read now the second time by its title only.

Chair. Puts motion if decided in affirmative. After second reading the member says: "Mr. Speaker, I move that the rule be suspended and this bill be engrossed at the clerk's desk and read the third time now and put upon its passage." If this motion is rejected the member should then move to engross at the clerk's desk and place on calendar, or he may just name a committee and have bill referred if he so choose to keep the question open. See Sec. 857-858.

Bills Passed with Unusual Expedition

Sec. 859a. In the ordinary progress of a bill, the proceedings either follows from day to day, or some days are allowed to intervene between each stage subsequent to the first reading; yet when any pressing emergency arises, bills are frequently passed through all their stages in the same day and even by both Houses.

This unusual expedition is commonly known as passing bills under suspension of rules. There are no rules of the Assembly which forbid the passing of bills in this manner and it is nothing more than an occasional departure from the usage of the Assembly. From the urgent necessity of such cases, the bills so passed are often of great importance in themselves, and may require more deliberation than bills passed with the ordinary intervals. On this ground the practice may appear objectionable but it must be recollected that no bill can pass rapidly without general or unanimous consent of the House. One stage may follow

another with unusual rapidity, but they are all as much open to discussion as at other times, and a small minority could protract the proceeding for an indefinite period.

Order of Business

Sec. 860. The order of business in the House and Senate are prescribed by rule—H. R. Nos. 22, 23 and S. R. Nos. 8, 9, 10, as follows: Motions relating to the order of business are not debatable. It is in the power of either House to change its order of business at any time. The motion to go into the committee of the whole to consider appropriation bills has precedence of motions to consider other bills.

At the beginning of the session each day immediately following the reading of the journal it is customary for the chair to place before his respective body any official communication he may have received and desires to lay before the members; following this, they proceed with the regular order of business. Each order being called as it is found in the rules and is continued until that business is completed before proceeding to the next order. For the convenience of the members each order of business is numbered and is known by such number as well as by the particular name of the business. If the entire order is gone through with during a session, and the body does not desire to recess or adjourn, it is customary for the chair to go through the order of business a second time, it would be permissible, however, for any member to move to revert to any particular order of business. It sometimes happens in the stress of business that several orders of business are not reached during a session. If this should happen, and a member believes that it would be desirable to make a change, it may be done by motion or by unanimous consent.

For example, if the House were considering business under order **No. 2—resolution and motions**—and a member desired to proceed to the order of business—**bills for third reading**—he could proceed to get the sense of the body as follows:

Member. Mr. Speaker: **I move the suspension of the rules and that the House proceed to the seventh order of business, bills for third reading.**

Chair: Is there objection? (After a pause if no objection is made). The chair hears none, **it is so ordered and the House will proceed to the seventh order of business. The clerk will report the first bill on the calendar**—or

Member. Mr. Speaker: **I ask unanimous consent of the House to proceed to the seventh order of business, bills for third reading.**

Chair: Is there objection? (After a pause, no objection being made) the chair hears none, **it is so ordered and the House will proceed to the consideration of bills for third reading.** The clerk will report the first bill on the calendar. (If the member making the request or motion desires the consideration of any particular bill on the calendar, it would necessitate a further suspension of the rules, his motion to take up out of order should follow the announcement of the Speaker: "bills for third reading.")

Interrupting a Speaker in Debate

Sec. 861. If a member should desire to interrupt a member who is speaking for the purpose of asking a question. He should arise, address himself to the chair (not the member) and say, "Will the gentleman yield to a question?" The chair should then ask the member speaking if he will yield to a question. If his reply be in the negative the member cannot be interrupted with the question and the matter should end there. If, however, his reply is in the affirmative, then the question may be asked. It is, however, entirely out of order for a member to take advantage of this opportunity to express an opinion or make any other remarks or undertake to draw the member speaking into a controversy. Questions put in this way are permissible only by courtesy of the member in possession of the floor and for this reason should always be relevant to the subject

under consideration. Any deviation from this rule should not be tolerated. See Cushing, 1675.

To Prevent Reconsideration

Sec. 862. The following precedence has found favor in the National House and has become the constant practice of that body usually made immediately following the announcement of the result of the vote.

Member: I move to reconsider the vote by which (naming the bill) was passed, and also move that the motion to reconsider be laid on the table. Under the practice of Congress a two-thirds vote is necessary to take from the table this motion for the reason, in congress the motion to take from the table cannot be made except under suspension of rules. In the Ohio practice this motion is permissible under the order of business, motion and resolution if so made requires a majority vote.

Unanimous Consent Agreement

Sec. 863. This is a very useful part of parliamentary machinery and its proper use greatly facilitates business. It has found, in recent years, great favor in our National Congress because it does away with the formality of a vote. One objection defeats unanimous consent and for this reason it would seem useless, even senseless, to submit a question upon which the entire membership is agreed. Take, for instance, the very frequent motion to suspend the rules. Surely nothing is to be gained by taking the question. This motion requires but a two-thirds vote and if unanimous consent is given to suspend the rules there is greater unanimity than there would be if two-thirds were for and one-third against.

Unanimous or general consent is asked most frequently when a member desires to do anything that is out of order. However, any motion prevails when unanimous consent is obtained. The following is the usual manner employed in ascertaining if unanimous consent is given.

Senator. Mr. President: I ask unanimous consent for

the bill just reported from the committee with amendments to be printed as amended.

Chair. Is there objection? (after a pause.) The chair hears none. Without objection, it is ordered that the bill be printed as amended or if objection is made; Chair: There is objection, does the senator desire to put his request in the form of a motion?

Member. I move that the bill be printed as amended.

Chair puts the question. The motion prevails and it is so ordered.

CHAPTER XVI

RULES AND PRACTICE

Yea and Nay Vote

Sec. 864. At the desire of any two members of the House, the yeas and nays shall be entered upon the journal and on the passage of every bill in either House, the vote shall be taken by yeas and nays and entered on the journal. (Const. Art 11, Sec. 9) Senate rule 40 provides that any senator may demand the yeas and nays or any question but the demand must be made before a vote is taken and declared. The same rule provides that when the President of the Senate is in doubt as to the result of of a **Viva voce** vote he may order the yeas and nays.

The yeas and nays must be called and entered upon the journal in each House on the following propositions, towit:

On the passage of bills and joint resolutions.

Upon the election of all officers.

On House and Senate resolutions involving the expenditure of money.

On the concurrence in amendments made by one House to a bill or joint resolution originating in the other.

On the adoption of all conference committee reports.

On all confirmations in the Senate of appointments by the Governor. (Const. Art. VII.

On all resolutions proposing amendments to the constitution (Cons. Art. XVI, Sec. 1.)

On all bills or resolutions giving extra compensation to any officer or employe, or for the payment of any claim not provided for by existing law. (Const. Art. 11, Sec. 29)

Sec. 865. In the House — Upon any item or items in an appropriation when demanded by ten members.

An affirmative vote of a majority is required to agree

to all propositions except where it is specifically provided otherwise by rule, the laws or constitution.

On all emergency laws.

On all emergency sections in emergency laws.

Sec. 866. By rule in the House and by practice in the Senate, after the clerk has commenced a call of the yeas and nays on any question, no motion or other business is in order until a decision has been announced by the chair. The roll call may not be interrupted except by the chair, and for the purpose of restoring order in the House. Members are not permitted to be about the desk of the clerk during a call of the yeas and nays.

Of Presiding Officers

Sec. 867. The Lieutenant Governor shall be President of the Senate **but shall vote only when the Senate is equally divided**, and in case of his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President Pro Tem (Art. II, Sec. 16, Const.)

Sec. 868. The Speaker of the House is its presiding officer and is elected by a majority vote of the House.

Sec. 869. The presiding officer of each House shall take the chair each day precisely at the hour to which their respective Houses shall have adjourned, or taken a recess, and shall immediately call the members to order; previous to the convening of the House the Speaker may read and correct the journal before it is read for approval.

Sec. 870. The President of the Senate does not correct the Senate journal.

Sec. 871. The presiding officers may name any member to perform the duties of the chair, such substitution not to extend beyond an adjournment for the day.

Sec. 872. The presiding officers have general supervision of the hall and shall preserve order and decorum in the proceedings and in case of any disturbance or disorderly conduct in the lobbies or in the galleries, they may cause same to be cleared.

Sec. 873. The presiding officers shall in the presence of the House over which he presides and while the same is in session and capable of doing business (a quorum being present sign all acts, addresses and joint resolutions when passed by both Houses, and all writs, warrants and subpoenas issued by order of the said House shall be under his hand, attested by the clerk of said House, except as otherwise provided by law.

Sec. 874. In the absence of the presiding officer at the hour to which the House shall have adjourned or taken a recess (except a substitute shall have been appointed by the chair as provided by the rules) **the clerk of his respective House shall call same to order and the House so called to order shall proceed to choose a member to preside until the presiding officer shall be present.**

Sec. 875. The President of the Senate appoints all committees for the Senate, except standing committees, unless otherwise ordered by the Senate, standing committees are appointed in the Senate by a committee chosen by the Senate for that purpose.

Sec. 876. The Speaker of the House appoints all committees of the House, unless otherwise ordered by the House. (The records of the House do not disclose that the House has ever taken this privilege from the Speaker.)

Sec. 877. The President of the Senate shall appoint three pages and the Speaker of the House shall appoint five pages. (G. C. Sec. 44)

Sec. 878. The President of the Senate and Speaker of the House shall ascertain the number of days' attendance of each member and officer of their respective Houses during the session, the number of miles of travel of each member to and from the seat of government and certify such attendance and mileage and the amount due therefor to the auditor of state. (G. C. Sec. 54.)

Of Conference Committees

Sec. 879. All committees of conference shall consist of three on the part of the Senate and three on the part of

the House of Representatives, unless otherwise specifically ordered by both Houses. Whenever any committee of conference of the two Houses shall disagree to any report of a committee of conference, such House shall forthwith notify the other of such disagreement and request another committee of conference and thereupon another committee shall be appointed.

Of Bills.

Sec. 880. "Bills may originate in either House and may be altered, amended or rejected in the other. **Every bill shall be fully and distinctly read on three different days unless in case of urgency three-fourths of the House in which it shall be pending, shall dispense with this rule.** No bill may contain more than one subject which must be clearly expressed in its title. No law shall be revived or amended unless the new act contains the entire act revived or the section or sections amended, and the section or section or sections so amended shall be repealed. Every bill passed by the General Assembly shall, before it becomes a law; be presented to the Governor for his approval. If he approves, he shall sign it and thereupon it shall become a law and be filed with the secretary of state."

Sec. 881. The House rules — "All bills shall be introduced in triplicate and shall be placed on the calendar and considered in the order in which they were introduced unless otherwise ordered." In the Senate "Bills may be introduced by a senator, or as the report of a committee in the regular order of business, or at any other time, on the leave of the Senate, upon a statement of the object of the bill."

Sec. 882. Bills introduced in either House must be legibly written, typewritten or printed and must bear the name of the author and must in all respects as to form comply with the laws and the rules of the General Assembly.

Sec. 883. Bills must have noted in their titles a distinct reference to the subject matter to which they relate and also, if they propose the amendment or repeal of any law,

to the section proposed to be repealed or amended. (The rule relative to titles is very important and should be strictly followed, unless it is followed to the letter the clerk should reject the bill and return same to the member for correction, or if the clerk is familiar with the subject of the bill he may correct or complete the title of the bill. However, under our practice the clerk has little opportunity to examine bills before they are sent to the printer, therefore the member should be sure that his title is correct before introducing it.

Incompleted Title

Sec. 884. To illustrate, the following is an insufficient title: **To amend section 19241 of the General Code.** With such title, anyone examining the title would be compelled to read the bill or look into the Code to find the subject of its content. The rules and constitution provide that the subject must be clearly set forth in the title, therefore the foregoing title should be corrected thus:

Correct Title

Sec. 885. **To amend section 19241 of the General Code relating to the proper observance of the Christian Sabbath.** This title conveys to the reader at once the real purpose of the bill.

Resolutions But Not Bills Are Printed in the Journal

Sec. 886. Bills and joint resolutions are printed after their first reading and distributed for the use of the members of the two Houses. All bills must be printed and distributed in the order in which they are introduced before any other action can be taken except their second reading.

How Corrections Are Made

Upon first reading of a bill and before it is printed the author may by leave of the Senate, make correction in phraseology but after a bill has been read the second time, such change must be made in the regular way, by amendment. (The House does not have a corresponding rule but the practice is the same.)

Printing of Bills

Sec. 887. "In all bills introduced which seek to amend existing statutes any new matter contained therein shall be underscored by the author, and when printed the matter so underscored shall be printed in italics, and when amendment is sought by omission or elimination of matter in an existing law, the author shall indicate such omission or elimination by asterisks and the printer shall follow such indicated marks in copy."

Sec. 888. No bill shall be sent to the printer by the clerk which does not conform to above requirements.

First Reading of Bills

Sec. 889. If opposition to a bill be made on first reading the question shall be "Shall the bill be rejected?" If the bill is not rejected it shall pass to a second reading in the regular order.

Second Reading of Bills

Sec. 890. All bills are read the second time, in the order in which they are introduced, and unless made a special order, are placed upon the calendar in the order in which they are directed to third reading.

Sec. 891. "On the second reading of a bill, the President shall state that it is ready for commitment or engrossment, if no motion or order be made to the contrary, it shall be committed to the committee of the whole to be considered in its order; if the bill be ordered to be engrossed the Senate shall direct on what day it shall be read the third time. If the question on ordering a bill to be engrossed for a third reading on a particular day be lost it shall not preclude a motion to order it to be engrossed for third reading on a different day, unless a division of the question be called for, if on such division the question on engrossing a bill shall fail, then the bill shall be considered lost." "After commitment and report to the Senate or at any time before its passage

a bill or resolution may be recommitted." In the House: "On the second reading of a bill the Speaker shall state that it is '**ready for commitment or engrossment**,' and, if no motion or order be made to the contrary, it shall be committed to a select or standing committee as the House may order."

Sec. 892. "When a bill is referred to the committee of the whole, the House must then determine on what day it shall be considered by the committee."

Sec. 893. "After commitment and report thereon to the House, or at any time before its passage a bill may be recommitted."

Sec. 894. In the Senate "All bills and resolutions reported by the committee with recommendation for passage or adoption, or ordered to be read a third time without reference must be unless the Senate otherwise order, placed on the calendar for the second day following their being so reported or ordered."

Third Reading of Bills

Sec. 895. Bills standing in order for third reading are taken up and read without motion to that effect, and unless otherwise ordered by the Senate, the question shall be "Shall the bill pass?"

Sec. 896. When the bill has been set for third reading on a particular day, shall for any reason, not be reached on that day, it shall stand for third reading on the first succeeding day when bills for third reading shall be reached in the regular order of business."

Sec. 897. "When a bill has been ordered for third reading on a particular day, or at a certain hour, it may not sooner be taken up except upon a two-thirds vote of the Senate."

Sec. 898. "When a bill or joint resolution has been passed or adopted in either House notice is forthwith given to the other House, also if a bill or resolution is rejected or indefinitely postponed which has passed the other House, the adverse action is reported to the other House."

Sec. 899. "When a bill or joint resolution which has passed one House and been amended and passed by the other; when returned to the originating House, the consideration of the amendments goes over one calendar day and the amendment or amendments are printed in the journal of the House to which it was returned unless otherwise ordered and the calendar must show on what page of the journal of the other House the amendments have been printed and these amendments appear upon the calendar in the order received."

Engrossment

Sec. 900. All bills and resolutions before they are passed or adopted by either House, must be carefully engrossed in plain handwriting, in printing or typewriting, and the engrossed copy carefully compared with the original bill and the journal showing the amendments agreed to." When a bill shall have passed one House and is amended in the other, the amendments are engrossed upon a separate piece of paper, and the bill as amended is fully engrossed and both returned with the engrossed bill received from the other House, to the House in which it originated.

Sec. 901. In such engrossment, sections of bills and joint resolutions amended shall be engrossed in plain handwriting, in printing or typewriting. Whenever a bill shall be passed in one House and sent to the other, and a substitute therefor is agreed to by such House; in the communication between the Houses such substitutes are designated and treated as amendments to the original bill, and the message relating thereto must definitely show as in the case of other amendments how the original bill is amended."

Amendments

Sec. 902. In the Senate after a bill has been read a third time it shall not be amended, except by reference to a committee with instructions, which instructions shall embody the amendment or amendments proposed. But it shall be in order to instruct the committee to amend an

engrossed bill in any particular. The method of procedure under this rule is for the member to prepare his motion as follows: I move to refer the bill to a select committee of one with instructions to amend as follows: (Here follows proposed amendment in full.) (This same rule was followed in the House until the 83rd General Assembly when the House repealed the rule.)

Sec. 903. In the House a member desiring to offer an amendment to any pending proposition shall proceed as follows: He shall prepare his amendment as to substance, designating the line or lines where he desires the amendment to be placed, then rise in his seat and address the chair and say, "I desire to offer the following amendment."

Sec. 904. No motion or proposition upon a subject different from that under consideration shall not be admitted under color of amendment.

Sec. 905. Committees amend bills in any particular, except they may not amend the title. The title can only be amended after the bill is passed.

Sec. 906. A motion to amend by striking out parts of a bill and inserting other matter is deemed to be divisible in the Senate; and a refusal to strike out is equivalent to agreeing to the matter in the form it is, when it is proposed to be stricken out, but a further amendment to the matter permitted to stand by way of addition is not precluded."

Sec. 907. Any matter inserted in or stricken from a bill by amendment except committee amendments, cannot be subsequently stricken from or inserted in a bill by amendment, thus restoring it to its original form, but this result may be reached by reconsideration if in order. Committee amendments are subject to amendment in any way, even to striking them out of the bill entirely. In the House a motion to strike out may not be divided. The rule for striking out and inserting in the Senate, is descriptive of the practice observed in the House, but it has no corresponding rule regulating the practice.

Sec. 908. "No bill or resolution may at any time be

amended by annexing thereto or incorporating therewith any other bill or resolution pending before the body."

Substitutes for bills and resolutions for the purpose of amendment are treated as original propositions, they are printed and retain the same status as the original bill.

Amendments made by committees and adopted by the House are subject to amendment in any particular even after the bill or resolution has been engrossed and passed third reading.

Amendments Between Houses

Sec. 909. When bills or joint resolutions pass one House and have been amended by the other, they shall lie over one calendar day and the amendment or amendments are printed in the journal of the House to which it was returned, unless otherwise ordered by the House, in which case the calendar shall show on what page of the journal of the other House the amendment or amendments have been printed and shall be placed on the calendar in the order received.

Sec. 910. As an illustration of the working of the foregoing rule, let us suppose the House has passed an appropriation bill which has been amended by the Senate and returned to the House for concurrence.

Sec. 911. Action on the Senate amendments would be deferred until the next day and the calendar of the next day would show under the head of

Senate Amendments for Concurrence

Sec. 912. Am. H. B. No. 450—Mr. To make appropriations for the fiscal year 1920. (Am. S. J. Mar. 16, page 15) The notation in parenthesis indicates where the member is to look for amendments made by the Senate.

Motions and Questions

Sec. 913 Every motion shall be reduced to writing if the presiding officer or any member desires it and whenever an amendment is offered to any bill or resolution under

consideration or any amendment to such amendment the member proposing same shall reduce it to writing and send same to the clerk.

Sec. 914. After a motion is stated by the chair or read by the clerk, it shall be in possession of the House, but may be withdrawn by leave of the House at any time before a decision or amendment.

Sec. 915. All questions whether in committee of whole or in House, except privileged questions, shall be put in the order in which they are made, except in filling blanks, the largest sum or number and longest time shall be put first.

Sec. 916. Questions shall be distinctly put in this form: You who are of the opinion (as the question may be) say "aye" and after the affirmative vote is expressed, you who are of the contrary opinion say "no". If the chair is in doubt as to the result of the vote by voice, or a division be demanded by any member, then the House shall divide, those in the affirmative of the question rising from their seats and afterwards those in the negative and the chair shall determine by count, announcing the result. (The right of a member to make a motion is dependent on the recognition of the chair, without such recognition a member offering a motion would be out of order.)

Precedence of Motions

Sec. 917. When a question is under consideration no motions are in order except the following which have precedence in the House in the order named:

- (1) To adjourn.
- (2) To take recess.
- (3) To proceed to the orders of the day (regular business).
- (4) To lay on the table.
- (5) For the previous question.
- (6) To postpone to a day certain.
- (7) To commit.

- (8) To amend.
- (9) To postpone indefinitely.

Sec. 918. In the Senate the same list of motions are privileged but they have a different rank as follows:

- (1) To adjourn.
- (2) To take recess.
- (3) To proceed to the orders of the day.
- (4) To lay on the table.
- (5) For the previous question.
- (6) To postpone to a day certain.
- (7) To commit.
- (8) To amend.
- (9) To postpone indefinitely.

Sec. 919. The motion to adjourn and to recess are of the highest privilege in both Houses. The foregoing arrangement of motions is according to former Speaker Reed of the National House of Representatives about ideal, even though it does vary considerably from the arrangement provided under general parliamentary law. The precedence given in this arrangement is, however, very much the same as in the National House of Representatives. In that body the second and third items are omitted entirely from the list of privileged questions and the motion to commit and amend are of equal rank.

Applicability of Secondary Motions to Each Other

Sec. 920. It is a general parliamentary rule that (with a very few exceptions noted elsewhere) secondary motions cannot be applied to each other. The purpose of giving rank and privilege to these secondary motions is to dispose of the main question and not pending secondary motions. While it is true that both Houses frequently permit the use of these motions to dispose of other secondary motions. There is absolutely nothing to be gained by the improper use of these motions. In proof of this latter statement let's take an example: a bill is pending, an amendment is offered and then a motion to commit or postpone is made and directed to the amendment instead of the bill or the main

question, result; if decided affirmatively both amendment and bill are committed or postponed, as the case may be. In other words, we have the same result as would have followed, had the motion been properly directed to the bill instead of the amendment.

Sec. 921. The writer is inclined to the opinion that the misuse of these motions is due largely to members camouflaging. For instance, he desires to make opposition to the bill, but does not wish to attack it directly and thinks to justify his opposition by making his attacks on the pending secondary motion, and the stranger to parliamentary procedure is usually in a hurry to withdraw his motion when told its effect.

Sec. 922. The motion to amend or commit cannot be applied to the motion to lay on the table, or to the previous question, or to the motion to postpone, except that the motion to postpone to a day certain may be amended as to the time. The motion to commit cannot be applied to the motion to amend, or to the previous question, nor either of the postponement motions.

Exceptions

Sec. 923. The exceptions to the foregoing rule are: a motion to amend can itself be amended, as can also the motion to postpone to a day certain, and the motion to commit. In the latter case the amendment may add instructions or change the committee.

Adjournment Motions, How Governed by Rules

Sec. 924. Either House may adjourn from day to day, but shall not adjourn for more than two days, Sundays excluded, without the consent of the other House, or to any place other than that in which the two Houses shall be in session. (Const. Art. 11, Sec. 14.)

Sec. 925. The House does not have a definite rule governing the motion to adjourn except the precedence given to it when a question is being considered.

Sec. 926. However, the constant practice of the House is well expressed in the following rule of the Senate. "A motion to adjourn shall be in order at any time, except when a member is addressing the House or while a vote is being taken, but cannot be made except by a senator who has been recognized by the President; and being decided in the negative shall not again be entertained until some motion, call or order shall have been acted upon. (This rule embraces a clear statement of the general parliamentary law on this motion.)

Sec. 927. The interim between any two sessions of the Senate on the same day shall be termed a recess, and on the reassembling at the appointed hour any question pending at the time of taking such recess shall be resumed without a motion to that effect. (In general parliamentary law when an adjournment is taken, pending business goes to the table. This rule changes that law and protects the pending business which should be taken up and finished at the next session. The motion for a recess is highly privileged and is in order at any time the motion to adjourn is in order and is superseded only by the motion to adjourn the House has the same rule.)

To Lie on the Table

Sec. 928. Neither House has a specific rule governing this motion except the place given to it in the precedence of motions.

Sec. 929. The parliamentary rule as given by Roberts governs in the House and that of Cushing in the Senate. Roberts' rule while stated in different language is practically the same as Cushing here given:

Sec. 930. The rule of Mr. Cushing is as follows: "The motion to lie on the table is a subsidiary or secondary motion, which supersedes and disposes of the motion to which it applied for the time being. It may specify the time, or be expressed in general terms. In the former case, if the motion prevails, the subject of it is disposed of for the time specified; in the latter, for the day only on which the order is made. The motion is proper when the

assembly has something else before it which claims its present attention, but is willing to reserve to itself the power of proceeding to consider the subject at a more convenient time.

Sec. 931. In general whatever adheres to the subject of this motion, goes on the table with it, as for example, where a motion to amend is ordered to lie on the table, the subject which it is proposed to amend goes there with it.

Sec. 932. But this rule does not apply to propositions which are independent of the motion laid on the table, though connected with it thus, "where a motion to amend the journal or the question on the reception of a petition, or a motion to reconsider a vote by which a bill passed through one of its stages, or an appeal from the decision of the presiding officer on a question of order, is laid on the table, neither the journal, nor the petition, nor the bill, nor the question of order goes on the table with the motion to amend or reconsider, or the appeal; the journal stands as if no motion to correct it had been made; the bill may pass through its remaining stages; the petition is not thereby received; and the decision of the presiding officer stands as the decision of the House. (Cushing Sec. 1449)

Sec. 933. For distinction between the table of the House and that of Speaker, see Cushing 1450.

Sec. 934. If the motion to lie on the table is decided in the negative it may be renewed whenever any new business intervenes or when the motion is in the meantime so changed by modification or amendment as to become a different one; if decided in the affirmative the subject is thereby disposed of for the time being, and can only be brought up again by moving to rescind or discharge or to proceed with the consideration of the subject, or by motion to reconsider. (Cushing Sec. 1451, see also section 1452, 1453 and 1454.)

Commitment

Sec. 935. The question of commitment is regulated by the rules of the House as follows: When a motion is made

to commit, if more than one committee is suggested, the motion shall be put upon the committees suggested, in the order in which they are named; but a motion to refer to the committee of the whole, to a standing committee or to a select committee shall have precedence in the order here named. A motion to commit may not be reconsidered. After commitment and report thereon to the House or at any time before its passage a bill may be recommitted. Mr. Cushing provides the Senate rule as follows: Motions to commit, or if the subject has already been committed, to recommit, whether moved as amendments or as independent motions, equally takes precedence of the motions to which they are applied. In the latter case, also, they may be moved after and take precedence of the motions to amend. The motion to commit, if decided in the negative may be renewed. (Cushing Sec. 1446) The motion to commit may be amended by changing committees or adding instructions, is debatable, but does not open the main question.

Postponement

Sec. 936. A motion to postpone to a day certain, or indefinitely, being decided in the negative, shall not again be allowed at the same stage of the bill or proceedings. If a motion to indefinitely postpone a bill or resolution be carried, such bill or resolution shall be declared lost.

Sec. 937. (This latter rule is a Senate rule for which the House has no corresponding rule yet the constant practice of the House is expressed in this Senate rule.)

Sec. 938. A bill or resolution postponed to a time certain shall not be considered at an earlier time, except upon the vote of two-thirds of the Senate elected. (The House has no corresponding rule except the general rule of the House that the order of business may not be changed except by suspension of rules (two-thirds vote) or by unanimous consent. The motion to indefinitely postpone is not amendable but is debatable and throws open main questions.)

The Previous Question

Sec. 939. A motion for the previous question is entertained only on the demand of three senators, or five or more members of the House. When regularly demanded the presiding officer shall put the question thus: "Shall the debate now close?" The previous question must be sustained by a majority vote and until decided precludes further debate, and all amendments and motions, except one motion to adjourn, and one motion to lay on the table. On a motion for the previous question and prior to voting on same a call of the House shall be in order; but after the demand for the previous question shall have been sustained no call shall be in order; and the House shall be brought to an immediate vote—first upon the pending amendments in the inverse order of their age and then upon the main question. All incidental motions or questions of order, arising after a motion is made for the previous question, and pending such motion, shall be decided without debate, and shall not be subject to appeal. If the motion for the previous question be not sustained, the subject under consideration shall be proceeded with the same as though the motion had not been made. In addition to the foregoing rules of the House and Senate the Senate has this additional rule: "Agreement to a motion to reconsider a vote on a main question shall not revive the previous question but the matter shall be subject to amendment and debate." (In other words, a question passed or lost under the operation of the previous question is, upon reconsideration divested of the previous question.) This rule states a ruling of, and the practice of the National House of Representatives.

The previous question can not be moved in the United States Senate but in the House of Representatives it is extended to all debatable questions.

Former Speaker Reed thinks the rule of the National House is a good one, a model for our state assemblies and

suggests the following rule for the previous question, for adoption by state legislative bodies:

Reed Rule for State Assemblies

Sec. 940. "The previous question may be ordered upon all recognized motions or amendments which are debatable, and shall have the effect to cut off all debate and bring the House to a direct vote upon the motion or amendment upon which it has been ordered."

Sec. 941. The previous question is neither debatable nor amendable. The original purpose of the motion for the previous question and its present use in the English Parliament, is to avoid a direct vote on the pending question. Its use in this country is entirely different, it being used almost exclusively for the purpose of closing debate, in the Ohio Assembly it is the only motion recognized for closing debate.

Reconsideration

Sec. 942. The rules of the House and Senate are nearly the same on reconsideration. This motion is highly privileged and is in order at any time within the time limit and is only superseded by the motion to adjourn. It is received any time within two calendar days of actual session of either House after such vote to be reconsidered was taken. A motion to reconsider may be made by any member, in their respective House, who voted with the prevailing side.

Sec. 943. (By prevailing side is meant the majority. If a question is lost or there should be a tie vote, then any member voting in the negative may move to reconsider. A member who was absent or did not vote when the original vote was taken may not move to reconsider. However, it seems to be the general practice of all legislative bodies where the vote was taken by voice, and not a yea and nay vote recorded in the journal, to permit any member to move to reconsider.) The vote on any question may be reconsidered by a majority in the House, a quorum being present, with one exception in the Senate, that being the "failure of a

bill or resolution" in which case the motion shall not prevail unless it receives the number of affirmative votes which would be required to pass the bill or resolution." Another exception to the rule to reconsider is provided by the rule of both Houses. "A motion to reconsider may not be reconsidered." The Senate has an exception to this rule. "A motion to reconsider having been decided shall not again be entertained unless the question has been changed in form by amendment." (This exception of the Senate is also the general parliamentary law.) When a motion to reconsider is laid on the table it does not carry the bill or resolution with it. The motion to reconsider action on a bill, resolution or other paper that may have gone out of the possession of the House in which the motion is being made, shall be entertained, if within the time specified in the rules, but such motion may not be voted on, until such bill, resolution or paper to be reconsidered shall be returned to the House where the motion is pending.

Sec. 944. The motion to recall is regarded as pending by rule in the Senate and by practice in the House, the chair is directed to entertain a motion to instruct the clerk to recall the paper to be reconsidered. The writer has always thought that the practice of both Houses in reconsidering bills or other papers not in its possession has been proceeded with backward and sometimes results in confusion and very often annoyance and loss of time. A bill is frequently recalled by the motion to reconsider, after it has made considerable progress in the other branch, for instance, referred to committee and often on the calendar.

Sec. 945. When returned to the recalling House and when the vote is taken, it is not unusual for the House to refuse to reconsider.

Sec. 946. The sentiment of the House can easily be ascertained on the question of reconsideration before recalling the bill, by a test vote which would seem to be the orderly procedure, thus, the member desiring to move the reconsideration should first move to instruct the clerk to recall the bill for the purpose of reconsideration, and after-

ward make the motion to reconsider. It is quite evident if the House should refuse to recall the bill it would also vote negatively on reconsideration, and if willing to recall the bill no doubt would vote affirmatively on reconsideration. This latter observation is not a part of the rules neither is there anything in the rules to prevent this suggested procedure, its use we are sure would often very much facilitate business.

Motions Decided Without Debate

Sec. 947. The undebatable motions as provided by both Houses are:

- (1) To adjourn.
- (2) To take a recess.
- (3) To lay on the table.
- (4) Previous question.
- (5) To take from the table.
- (6) To go into the committee of the whole on orders of the day.
- (7) All questions relating to priority of business.

Decorum and Debate

Sec. 948. Whenever a member is about to speak he shall rise from his seat and respectfully address himself to the presiding officer and the presiding officer shall announce the member from the county he represents; and if there be more than one member from such county, then by adding the name of the member. (Thus, the member from Cuyahoga, Mr. Reynolds.) In all cases the member who shall first rise and address the chair shall speak first, but when two or more members shall rise at once, the chair shall name the member who is to speak.

Sec. 949. A member may speak from his seat or from the seat of another member tendered him for that purpose, or from the desk of the clerk.

Sec. 950. No member shall speak more than twice on the same question except by leave of the House and he shall confine himself to the question under debate and avoid

personalities. This rule does not apply in the committee of the whole.

Sec. 951. A member while discussing a question may read from books, papers or documents any matter pertinent to the subject under debate. In the Senate it is provided that the reading of such papers, etc., shall be of reasonable length. The President of the Senate shall decide upon the relevancy of the matter being read and upon the limitation as to length, but his decision is subject to appeal. In the Senate the members may require the reading to be by the clerk. In the House papers may be read without motion for leave.

Sec. 952. Any member may call for a statement of the question. Any member may call for a division of the question and the decision of the chair as to its divisibility shall be subject to appeal as in questions of order.

Sec. 953. Any senator in the Senate and any two members in the House may demand the yeas and nays upon any question, but the demand must be made before a division, or before a vote is taken and declared. While the Speaker or President is putting a question or addressing the body no one shall walk across the hall. When a member is speaking no one shall pass between him and the chair.

Sec. 954. All questions of order are decided by the presiding officer, without debate; and decisions are subject to appeal to the House by any two members of the body and on such appeal no member shall speak more than once, unless by consent of the House, and the presiding officers speak in preference to members.

Sec. 954-a. If the decision be in favor of the member called to order, he shall be at liberty to proceed, otherwise he shall not be permitted to proceed, except by leave of a majority of the House.

Sec. 954-b. If a member call another to order for words spoken in debate, he shall, if required by the chair, reduce to writing the language used by the member which is deemed to be out of order.

Sec. 954-c. If any members in speaking or otherwise transgress the rules, the chair shall or any member may, call him to order, and the member so called to order shall take his seat if required to do so by the chair.

Suspension of Rules

Sec. 955. The rules of both Houses may be suspended by a two-thirds vote of each House. All the rules of either House, both written and unwritten including Roberts' and Cushing's may be suspended by a two-thirds vote, except in the House it is specifically provided that rule 95 may not be suspended. The constitutional rules may not be suspended except by a three-fourths vote.

Sec. 956. The joint rules have no rule for their suspension, but many years ago there was a joint rule providing for their suspension by a two-thirds vote by either House. The rule for some reason was dropped and never revived, yet the practice established under that rule has continued to be the unchallenged practice of both Houses and has now come to be considered as an unwritten joint rule. The rules may not be suspended in the absence of a quorum.

Sec. 956-a. The word "urgent" as contained in the constitutional rule is construed in the practice of both Houses to mean "at the pleasure of the House in which the motion to suspend is made." The question of urgency, however, is never raised.

While it is true all the rules may be suspended, they may not be altered except by giving at least one day's notice. The constitutional rule providing for the three readings of bills in the practice of the House is usually, upon motion, dispensed with for each reading. This practice is unnecessary, according to the opinions of the best authorities. The rule provides for three readings on separate days. If the rule is dispensed with, then no rule remains relative to reading bills, and after one suspension the bill should pass on to its final consideration without further interruption.

Sec. 956b. The thought seems to prevail, that in suspending the constitutional rule, that only the reading on different days is affected by such suspension. While it has this effect of course it goes farther, it in fact does away with the necessity of three readings. In other words, when a bill is introduced after dispensing with rules, it should be carefully, distinctly and fully read through once for the information of the House; the first reading being completed the Speaker should at once put the question on engrossment and then on passage; this practice satisfies the constitutional provision. See sections 854-857-858 this manual.

Report of Conference Committee

Sec. 957. A committee of conference appointed to consider matters of difference between the two Houses upon any bill or resolution, may consider and include in its report any amendments pertinent to the bill or resolution, whether or not the form or substance of such amendments relate exclusively to the original matters of difference, or the committee may offer a substitute for said bill or resolution.

Sec. 958. The report of a conference committee is always in order, except during a roll call, or division, and cannot be laid on the table, referred to a committee, or indefinitely postponed, and must be voted upon as a whole.

When committees of conference have met and shall have come to an agreement, the bills and papers adhering thereto shall remain in the House in which the bill originated; if no agreement is reached then the bill shall remain in possession of the House asking for the conference committee.

Committees

Sec. 959. The first named member of a committee shall be its chairman, unless the committee by a majority vote elect a chairman. In the Senate the next named member acts as chairman in the absence of the chairman, unless

the committee by a majority vote elect some member to act as chairman. In the House any member may decline to serve on a committee, if at the time, he is a member of three other committees.

Committee Meetings

Sec. 960. Due notice shall be given of all committee meetings, and they shall be open to the public. Each committee shall keep a record of its proceedings including the names of all persons who may appear before said committee.

Each committee shall meet upon the call of its chairman, and in case of his absence, or refusal to call the committee together, a meeting may be called by any two members of the committee. All committee meetings shall be open and a record of the action taken therein shall be kept by the secretary of the committee, the same to be filed with the clerk of the Senate at the close of the session.

No committee shall sit during the daily sessions of either House without special leave.

Reports of Committees

Sec. 961. The several standing and select committees of the Senate shall have leave to report by bill or otherwise, but the report of any committee must be signed by a majority of its members before it can be received at the clerk's desk; when a majority of a committee have reported, the minority may present their views, when the question shall be upon the substitution of the minority for the majority report. All reports of the committee shall be signed by a majority of the members thereof, and the report with the name of the member or members signing the same, shall be read by the clerk, or at the clerk's desk by the member making the report without a motion unless the reading be dispensed with by a majority of the House.

Sec. 962. When a motion is made to commit to a committee of the whole Senate, or to a standing committee, it shall not be in order to amend such motion

by substituting any other committee, but if any other committee is suggested, the question shall first be put on the committee first named, and afterward upon the committee or committees suggested in the order in which they are suggested. The House does not have a corresponding rule but the Senate rule clearly describes the practice of the House.

A report of an enrollment committee is privileged and may be made in either House at any time they are not engaged.

Committee of Whole

Sec. 963. In forming the committee of the whole, the Speaker shall leave the chair, and appoint a chairman who shall preside and vote as other members. In the committee of the whole, bills shall be read by the chairman or clerk and be considered by sections, unless it shall be otherwise directed by the committee, leaving the preamble to be last considered.

Sec. 964. When the House shall be ready to proceed to the orders of the day, a motion to go into the committee of the whole on the orders of the day, shall have precedence of all other motions, except to adjourn, to take a recess, and for the previous question. When a bill has been referred to the committee of the whole, the House shall determine on what day it shall be considered by the committee. In committee of the whole, the body of the bill shall not be defaced or interlined, but amendments shall be noted by the chairman or clerk, on a separate piece of paper, as the same shall be agreed to by the committee and so reported to the House. After being reported the bill and amendments of the committee shall be immediately taken up for consideration, unless it shall be otherwise ordered by the House, and again be subject to amendment or discussion, before the question to engross shall be taken.

Sec. 965. The rules of proceeding in the committee of the whole, shall be the same as in the House, as far as may be applicable. In the Senate when the Senate is ready to proceed to the orders of the day, a motion to go

into the committee of the whole on the orders of the day shall have precedence of all other motions, except to adjourn, to take a recess, to lay on the table and for the previous question.

In forming the committee of the whole the President shall leave the chair and appoint a chairman who shall preside and vote as other senators. The clerk shall make no permanent record, but shall keep such minutes of the proceedings of the committee of the whole as will enable the chairman to make up his report to the Senate. In the committee of the whole bills and resolutions shall be read by the chairman or clerk and considered by sections, unless it be otherwise directed by the committee, leaving the title or preamble, as the case may be, last to be considered. The body of the bill shall not be defaced or interlined, but amendments shall be noted by the chairman or clerk, on a separate piece of paper, as the same are agreed to by the committee, and so reported to the Senate. When the committee shall rise, the President of the Senate shall immediately resume the chair, and the chairman of the committee of the whole shall at once present the report of the committee. The Senate shall forthwith proceed to the consideration of the bill and amendments of the committee, unless the Senate shall otherwise order, but the bill shall be subject to discussion or amendment before the question to engross the bill is taken. The rules of the Senate govern in committee of the whole, so far as they are applicable.

CHAPTER XVII

MISCELLANEOUS

Can Members Be Compelled to Vote?

Sec. 966. The rules of the House and Senate which are modeled after the rules of the National House of Representatives, declare that every member present shall vote. The rules of both the House and Senate require every member present to vote, so also do the rules of the National Congress.

Sec. 967. In the National Congress it has been found impracticable to try to enforce the rules requiring every member to vote and it seems the weight of authority also favors the idea that there is no authority in the House to deprive a member of his right to vote. (Hinds Vol 5.) America's great parliamentary writer Cushing agrees with this practice of Congress that there is no authority to compel or prevent a member from voting.

Leave of Absence

American Parliamentary Practice

Sec. 968. In Congress leaves of absence are granted by the bodies, not the presiding officer, pending the motion to adjourn. The request for a leave of absence comes from the floor of the House by the member desiring same, but it is also permissible for any member to request leave of absence for another member. Requests for leaves of absence are usually granted by general consent, but sometimes are opposed and even refused.

Excuses for Absence

Sec. 969. Excuses for absence, as distinguished from leaves of absence, may be granted by less than a quorum.

the vote of the person tendering his resignation. If members resign when the Assembly is not in session, resignations must be presented to the Governor and they become effective when accepted by the Governor. (Sec. 47 G. C.) When resignations tendered to either House are accepted, the House should then order the Speaker or President to notify the Governor of such resignation.

Executive Nominations

Sec. 979. Many of the appointments that the Governor is authorized to make must, under the laws, be confirmed by the Senate. The following will show procedure in the Senate when such nominations are received. It has been the custom upon motion to refer them to the committee on rules for consideration and to report recommendations before final action is taken.

In my examination of this procedure in other states, I have found that in many of them it is the invariable custom, before taking final action upon executive nominations, for the Senate to refer such nominations to the senator or senators representing the district in which the person nominated resides, for approval or disapproval.

Sec. 980. It would seem that this is a courtesy due the senators, and is a practice that should be established in Ohio. The rule of the National Senate on the subject of executive nominations is as follows: Rule 38.

Sec. 981. Section 1. When nominations shall be made by the President of the United States to the Senate, they shall, unless otherwise ordered, be referred to appropriate committees; and the final question on every nomination shall be, "Will the Senate advise and consent to this nomination?" which question shall not be put on the same day on which the nomination is received, nor on the day which it may be reported by committee, unless by unanimous consent.

Sec. 982. Section 2. All information communicated or remarks made by a senator when acting upon nominations concerning the character or qualifications of the per-

son nominated, also all votes upon any nomination shall be kept secret. If, however, charges shall be made against the person nominated, the committee may, in its discretion, notify such nominee thereof, but the name of the person making such charges shall not be disclosed. The fact that a nomination has been made, or that it has been confirmed or rejected, shall not be regarded as a secret.

Sec. 983. Section 3. When a nomination is confirmed or rejected, any senator voting in the majority may move for a reconsideration on the same day on which the vote was taken, or on either of the next two days of actual executive session of the Senate; but if a notification of the confirmation or rejection of the nomination shall have been sent to the President before the expiration of the time within which a motion to reconsider may be made, the motion to reconsider shall be accompanied by a motion to request the President to return such notification to the Senate. Any motion to reconsider the vote on the nomination may be laid on the table without prejudice to the nomination, and shall be a final disposition of such motion.

Sec. 984. Section 4. Nominations confirmed or rejected by the Senate shall not be returned by the secretary to the President until the expiration of the time limited for making a motion to reconsider the same, or while a motion to reconsider is pending, unless otherwise ordered by the Senate.

Sec. 985. Section 5. When the Senate shall adjourn or take a recess for more than thirty days, all motions to reconsider a vote upon the nomination which has been confirmed or rejected by the Senate, which shall be pending at the time of taking an adjournment or recess, shall fall; and the secretary shall return all such nominations to the President as confirmed or rejected as the case may be.

Sec. 986. Section 6. Nominations neither confirmed nor rejected during the session at which they are made shall not be acted upon at any succeeding session without again being made to the Senate by the President; and if the Senate shall adjourn or take a recess for more than thirty days,

all nominations pending and not finally acted upon at the time of taking such adjournment or recess shall be returned by the secretary to the President, and shall not again be considered unless they shall again be made to the Senate by the President."

Watching a Bill After Introduction

Sec. 987. When a member has introduced a bill his troubles and work have barely begun. After the bill is introduced it is sent to the printer the same day to be printed. This usually takes from three to ten days, depending of course on the amount of work the printer may have on hand. As soon as printed the bill will be placed in the member's bill book on his desk. He should watch for its appearance in his bill book and should it not appear in a reasonable time, he should make inquiry of the bill clerk to ascertain if the bill was printed. If he finds that it has not been printed he should notify the clerk or his deputy.

Sec. 988. When he finds the bill in his bill book he should, if possible, find time to compare the printed with the original copy, and such errors as he may find should be reported to the clerk, who according to the necessity of the case will cause the bill to be reprinted or instruct the member how to prepare an amendment to correct the bill when the House considers it.

Sec. 989. When the bill is read a second time, he should be present to name the committee which he desires to consider it. After it is referred he should call upon the chairman of the committee and arrange a time for a hearing on his bill. He should also meet with the committee personally and explain his bill requesting that it be favorably reported. If the bill is one likely to draw opposition, he may expect that such opposition will wish to be heard.

Sec. 990. If the opponents have a hearing it would be well for him to be present and introduce them to the committee. The chairman of the committee will cause printed invitations to be sent to any person suggested to

him to be interested in the bill, of the place and time of the meeting, and by request of the author invite such persons to be present and be heard. If after introduction the author should find errors in his bill, or that it should be amended further to perfect it, he should carefully prepare such amendments and submit them to the committee for consideration, with the request that the committee recommend the amendments when the bill is reported.

Sec. 991. If the committee should reject the amendments, the member may offer them from the floor of the House when the bill is considered on its third reading. After a bill has passed one branch the member should arrange with a member of the other branch to take care of his bill there when introduced in that body by message. This will usually occur the following day—the same day if the bill has not been amended.

Enrolled Bills

Sec. 992. Dr. Paul Reinsch, Professor of Political Science in the University of Wisconsin, in his book, "American Legislatures," says, pp. 142, 143: "The question has arisen whether courts in applying the law of the state are bound to accept as final the **enrolled bill, authenticated by the presiding officers** of the two Houses and signed by the Governor, or whether they may go behind the authentication and examine the journals to see whether all constitutional requirements have been fulfilled in the passing of the bill. "On this question the courts are in contradiction and in almost hopeless confusion. Originally, the prevailing opinion was that the constitutional provisions were mandatory, and that the courts could go back of the formal authentication, and determine from the journals whether the constitutional provisions had been fulfilled." "But this opinion has of late been losing ground, so that at present the courts are about evenly balanced for and against the conclusiveness of the enrolled bill, with a growing tendency toward the former alternative." The general principle involved and appealed to by the courts

may be stated as follows: On the one hand it is claimed that if the specific requirements laid down by the constitution are not actually fulfilled, no valid legislation can originate; and a certificate of officials cannot render valid an act which is void by falsely representing that it was passed with due formalities. The courts, it is argued, are therefore bound to disregard such enactments when it clearly appears from the journal that definite constitutional requirements were not complied with. In behalf of the opposing alternative, it is urged that the constitution directs its commands with respect to procedure to the legislature itself and that the latter body must be trusted to carry out these provisions through its rules. The formal attestation of the presiding officers of the House is considered on the whole better evidence of authenticity than the journal." The practice of questioning a law which has stood on the statute books for years because someone may discover in the journal that a constitutional requirement was omitted in its passage would lead to a general unsettling of confidence in the legal system. We may generally rely upon the formal authentication by officials. The supreme court of North Carolina has clearly stated the distinction, that, when the constitution contains no provisions requiring specific entries in the journal, the enrolled act cannot be impeached by the latter; but upon the presence of such entries, where required, the journal alone is to be considered conclusive evidence. According to this distinction, the enrolled bill will be conclusive proof that the ordinary requirements have been complied with, and the journal should not be admitted to contradict these presumptions. But if it could be shown that the journal does not contain a record of the vote, which it is required by the constitution to contain, this act would have to be considered void."

Confusing Clerk

Sec. 993. It sometimes happens that in the midst of general confusion in the House the clerk is directed by the Speaker to call the roll, and he soon finds it im-

possible to hear responses. When this condition arises the clerk should not imperil the accuracy of the roll-call by continuing but should stop and address the Speaker, saying: Mr. Speaker: There is so much confusion it is impossible to hear the responses of members. The Speaker should then call the House to order and announce: **The public business will be suspended until the House is in order and ready to do business in an orderly manner.**

Constitutional Amendments

Sec. 994. The constitution in sec. 1, art. XVI, explains the manner of submitting amendments to the people by the General Assembly. In adopting amendments to submit to the people there are some very important requirements that fall to the clerk to carry out, and unless these requirements are fulfilled by the clerk of the Senate and House the efforts of the Assembly to submit an amendment will fail. The important requirement referred to is the proper authentication of the adoption of the resolution or proposed amendments.

Sec. 995. In the session of 1919 a classification amendment to the constitution was adopted by the assembly, it was improperly enrolled but signed in the usual manner. When the error was discovered, the matter was submitted to Hon. John G. Price, Attorney General, who after examining the records of both Houses rendered the following opinion: "It appears from the statement of facts that the joint resolution proposing an amendment to the constitution providing for the classification of property for the purposes of taxation was proposed by the Senate and after being duly agreed to, was entered on the journals of both Houses of the Assembly. That both journals are in accord as to the terms or contents of the proposed amendments, and that which purports to be, but is not, a true and correct copy of the proposed amendment was prepared and authenticated by the presiding officers of both Houses and filed with the secretary of state. *** "What is the best

evidence of the proposed amendment, the journals or the enrolled and authenticated copy?" *** Here is quoted sec. 1, art. XVI. It will be observed that after an amendment has been proposed and agreed to by three-fifths of the members elected to each House, such proposed amendment shall be entered on the journals with the yeas and nays.

Journals are Best Evidence

Sec. 996. "It may be pertinently said that the constitution does not require that either the Senate or the House, when proposing an amendment to the constitution under sec. 1, art. XVI shall make the proposal in any particular form. The form would appear to be immaterial. The important facts to be ascertained are whether either branch of the Assembly has proposed an amendment to the constitution which has been agreed to by three-fifths of the members elected to each House, and if so, what the proposed amendment really is. As before stated, the journals are the best evidence of their existence."

Sec. 997. In this same connection, Secretary of State Harvey Smith gave out this statement: "Under the mandatory provisions of the constitution the secretary of state can submit to the people no proposed amendment except that entered on the journals." According to the foregoing opinions it is very necessary that the clerk exercise great care in handling proposed constitutional amendments. He should know when such amendments are to be considered and be prepared to enter them on the journal just before the vote is taken and follow the resolution with the vote thereon as soon as taken, in this manner mistakes may be avoided and constitutional requirements complied with.

Paymaster

Sec. 998. The clerks are the paymasters of their respective bodies. It is customary for the clerks to appoint one of their assistants to perform the duties of paymaster or financial clerk who looks after the bills of the House and pays its members and employees. The officers and

employees are paid twice a month; on the fifteenth and at the end of each month.

The members receive their salary of two hundred per month, once a month during the session. It is usually paid between the fifteenth and the end of the month, the time fixed at the discretion of the Auditor of State. The remainder of salary due and mileage is paid at the close of the session.

Members — Oaths Administered By

Sec. 999. Section 62 of the General Code provides that the chairman or any member of a committee of the General Assembly, or either House thereof, or of a subcommittee may administer oaths to witnesses produced or appearing before such committee or such subcommittee.

Title

Sec. 1000. The extent to which the title of a bill can be used is thus stated by Chief Justice Marshall of the United States Supreme Court. "Neither party contends that the title of an act can control plain words in the body of the statute; and neither denies that, taken with other parts, it may assist in removing ambiguities. Where the intent is plain, nothing is left to construction."

Foundation of Parliamentary Practice in Congress

Sec. 1001. The foundation of the parliamentary practice in both Houses of Congress is Jefferson's Manual. It is to be noted, however, that the practice of the House has been so changed as to make many of the provisions in Jefferson's Manual entirely obsolete but the Senate still adheres closely to its provisions.

Substitute

Sec. 1002. A substitute bill is one form of an amendment.

Any member who finds a draft of any bill unsatis-

factory, may redraft the entire bill so long as he adheres to the subject matter set forth in the title.

A substitute, when offered, takes the place of the bill for which it is a substitute, but retains its title, name of author, number and stages of its progress.

The usual form used in offering a substitute is as follows: Strike out all after the enacting clause and insert the following: (Here follows the subject matter.)

Journal

Sec. 1003. The journal of the House is supposed to contain a true record of all its proceedings as they actually occurred.

The Journal of the preceding day is read the next day, by the clerk, and is subject to correction before approval by the House.

After approval of the Journal it stands as a true record of the proceedings of the body and cannot be changed.

After the reading of the Journal the Speaker announces: "Shall the Journal of yesterday be approved?" If no objections are made the Speaker announces "the Journal stands approved as read."

It should be remembered that the Journal cannot be changed in any part where the record is correct and sets forth the true proceedings of the body, but only where an error has been made in recording the minutes. The question as to whether or not the proceedings of the House have been correctly recorded by the clerk is a matter to be determined by the House.

The Journal of the previous day is printed and placed on each member's desk the following morning.

Calendar

Sec. 1004. The printed Calendar contains the regular orders of each legislative day, in other words all bills for second reading, bills for third reading, resolutions laid over under the rules, and such other information as may be ordered by the House.

Bills appear upon the Calendar by number, author and title — for second reading in the order of their introduction; for third reading in the order they are reported from committees.

At the end of each legislative day all business on the Calendar not disposed of is moved forward on the Calendar for the following day.

The rules of the House provide that Senate bills reported from committee take precedence on the Calendar over House bills reported the same day.

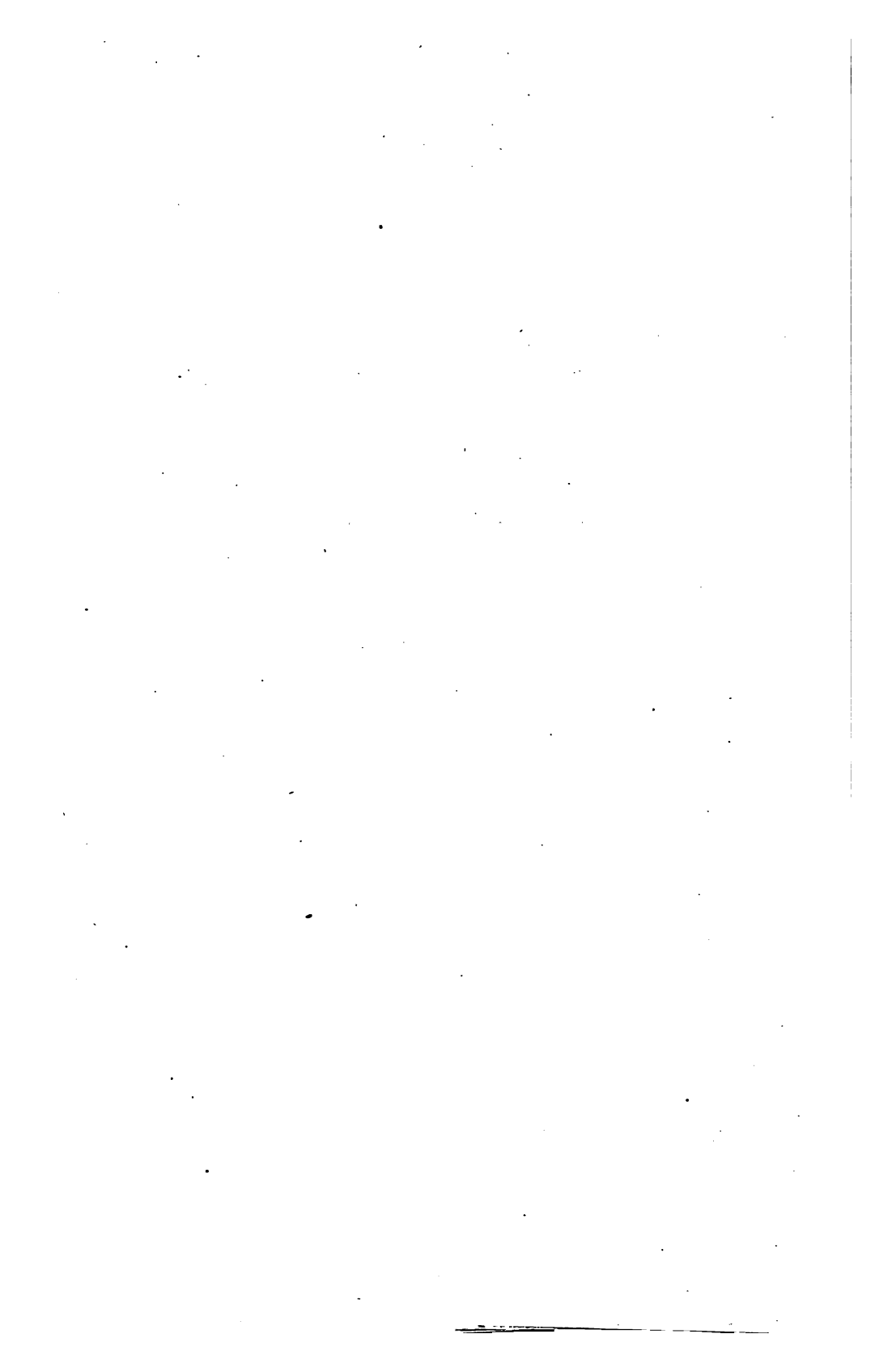
Legislative Day

Sec. 1005. The time to which the House adjourns is fixed by rule, and a legislative day commences at the time to which the House adjourned, whether the time fixed by rule, or the time set forth in the motion to adjourn, and ends upon the next adjournment.

If the House takes a recess from one day to another, the proceedings of the second day are a part of the first legislative day.

To have a new legislative day there must be an adjournment — in other words, if the House met on Monday and recessed from day to day until Saturday, the proceedings of the entire week would be a part of the legislative day of Monday.

Business each day would begin exactly where it was left off on the preceding day without motion to that effect, and the Journal would not be read until the beginning of the next legislative day.



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CHAPTER XVIII

METHOD OF PASSING BILLS IN NATIONAL HOUSE OF REPRESENTATIVES

Sec. 1006. The rule of the National House of Representatives is at present as follows:

Introduction of Business

Rule XXII, Sec. 1. Members having petitions or memorials or bills of a private nature to present, may deliver them to the clerk, indorsing their names and the reference or disposition to be made thereof, and said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an obscene or insulting character, shall be entered on the journal with the names of the members presenting them.

Sec. 1007. Sec. 2. Any petition or memorial or private bill excluded under this rule shall be returned to the member from whom it was received, and petitions and private bills which have been inappropriately referred may, by the direction of the committee having possession of the same, be properly referred in the manner originally presented, and an erroneous reference of a petition or private bill under this clause shall not confer jurisdiction upon the committee to consider or report the same.

Sec. 1008. Sec. 3. All other bills, memorials and resolutions may, in like manner be delivered, indorsed with the names of members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions and documents referred under the rules shall be entered on the journal of the next day, and correction in case of error of reference may be made by the House without debate, in accordance with rule XI,

on any day immediately after the reading of the journal, by unanimous consent, or on the motion of a committee claiming jurisdiction or on the report of the committee to which the bill has been erroneously referred.

Sec. 1009. The early congresses were governed by the old rule of parliament. That is that all bills should be introduced on report of committee, or by motion for leave to bring in a bill, and at the time of introduction all bills were read the first time by title only. By various modifications, beginning about 1842, the rule has reached its present state of perfection. At first the rule provided only for the introduction of private bills by filing them with the clerk, but in 1890 this new method was by Sec. 3 extended to all public bills.

Practice Under Rule

Sec. 1010. It is claimed that this new method is a great time-saver. It does away with long call of states, and the consequent delay in waiting for page or messenger boys going to and from members' seats to deliver bills to the clerk. The rule provides that papers of all kinds shall be introduced by **Filing Them with the Clerk**, but in actual practice the intent and purpose of the rule is fully carried out by members depositing all such papers in a box prepared for such purpose by the clerk. This box is known as the BILL BOX, and is in the custody of the clerk. At a convenient time each day the clerk removes all papers from the box and has them entered on the journal as provided in the rule. Before doing so the clerk numbers all bills and resolutions. Then the private bills and other papers that are referred to committees are sent to the committee indicated as indorsed on the bill or paper by the member. Public bills are delivered to the Speaker who refers them and they are returned to the clerk for distribution to the proper committees.

Sec. 1012. The old rule of the House provided that all bills should be read the first time by title and the second time in full, and the third time by title. Consistent with this rule, it was the early practice to read all bills the first

time by title upon their introduction. But since 1890, or the time of the adoption of the new system of introducing bills by filing with the clerk, the reading by title on introduction was rendered impossible. But the printing in the journal of all titles of bills introduced is said to accomplish the real purpose and satisfies the rules.

Reference of Bills to Committees

Sec. 1013. All public bills are referred by the Speaker, private bills and indorsed with the name of the committee to which they are to be referred by the member introducing them and they are so referred by the clerk. Senate bills are also referred by the Speaker. Communications addressed to the House from the executive department or from other sources are referred to committees by the Speaker, which give authority to the committee to originate bills on the subject referred to them. It is also provided by rule that all bills shall be referred to the standing committees in accordance with the jurisdiction of the committees, viz., to the election committee subjects relating to elections and election of members, subjects relating to appropriations to the committee on appropriations.

Sec. 1014. The rule relative to bills going to proper committees is mandatory on the Speaker and on the member in referring private bills. But when the House itself refers a bill it may be sent to any committee without regard to the rules of jurisdiction and jurisdiction is thereby conferred. The erroneous reference of a public bill, if it remain uncorrected, gives jurisdiction, that is to say, bills referred by the Speaker. This, however, is not true of a private bill or petition.

Sec. 1015. When it is found that bills have been sent to committees without jurisdiction to consider them it is customary for points of order to be raised. In this way the bill is brought before the House and if improperly referred, it is referred again by the House. Sometimes the point of order is not raised until after the committee has reported and when the bill is under consideration on second

reading or when considered in committee of the whole. Questions of order of this kind are usually held to be in order and if sustained the bills are again referred to the proper committee for consideration.

Sec. 1016. Motions to change the reference of public bills are not open to debate or subject to amendment. If the question of order is raised in committee of the whole and it is sustained the committee should rise at once and report the matter to the House, the House would then discharge the committee from further consideration and refer the bill to the proper committee.

Sec. 1017. Rule XI of the House provides the various subjects that shall be referred to certain committees.

Sec. 1018. In referring bills, all such as are excluded by the Speaker are returned to the members presenting them.

Sec. 1019. Correction of errors in reference of bills are in order on any day by the House without debate, immediately following the reading of the journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on report of a committee to which the bill has been erroneously referred.

Sec. 1020. Petitions and private bills which have been inappropriately referred may, by the direction of the committee having possession of the same, be properly referred in the manner originally presented by making the correction at the desk of the clerk. That is, the chairman of the committee having the bill indorses on it the fact that the jurisdiction of the bill belongs to another specified committee and delivers same to the clerk who sends the bill to the proper committee as was originally indicated by the introducer.

Sec. 1021. Bills for the purpose of reference are not divisible. It has been the general practice of the National House under this later procedure not to permit bills to originate in committee or to permit their introduction by committee. However, a bill may be originated by a committee having jurisdiction of a subject by means of petition.

Sec. 1022. After a committee is in possession of a bill and has considered it, it is then too late to reconsider the order of reference, and cannot be brought into the House again on a motion to reconsider. This latter rule, however, does not hold good on a bill, wherein the House after considering a bill, recommitted it. After a committee reports a bill, it is too late to reconsider the vote by which it was referred. All bills are printed when referred.

Reports of Committees

Sec. 1023. A standing rule of the House provides: "All petitions, bills, memorials or resolutions reported from committee shall be accompanied by reports in writing." This rule is rigidly enforced by the House. But the sufficiency of a report is always passed upon by the House, not the Speaker.

Sec. 1024. A report is not necessarily signed by all those concurring or even by any of those concurring, but minority ones are signed by those submitting them.

Sec. 1025. All committees having leave to report at any time report from the floor of the House, other committees make their reports by laying them on the table of the clerk, informally. The bill and report are printed when reported.

Sec. 1026. The practice of the House requires that all committee reports must be agreed to by a majority of the committee being present, reports agreed to by a majority of a committee are sometimes reported and only signed by one member.

Reports of Committees and Calendars

Sec. 1027. Committee reports are distributed to three calendars. Occasionally a privileged report and bill are considered when reported; but the usual practice is to place it with unprivileged bills on the calendar where it belongs under the rule by direction of the Speaker.

Sec. 1028. House rule XIII provides as follows: "Sec. 1. There shall be three calendars to which all busi-

ness reported from committees shall be referred, viz.: First, a calendar of the committee of the whole House on the state of the Union to which shall be referred bills raising revenue, general appropriation bills and bills of a public character directly or indirectly appropriating money or property.

Sec. 1029. Second—a house calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property.

Sec. 1030. Third—a calendar of the committee of the whole House, to which shall be referred all bills of a private nature."

Sec. 1031. Sec. 2. All reports of committees, except as provided in clause 56 of rule XI, together with the views of the minority, shall be delivered to the clerk for printing and reference to the proper calendar under the direction of the Speaker, in accordance with the foregoing clause, and the titles or subjects thereof shall be entered on the journal. Provided, that bills reported adversely shall be laid on the table, unless the committee reporting a bill, at the time, or any member, within three days thereafter, shall request its reference to the calendar, when it shall be referred, as provided in clause one of this rule.

Unanimous Consent Calendar

Sec. 1032. (3) After a bill which has been favorably reported shall be upon either the House or union calendar, any member may file with the clerk a notice that he desires such bill placed upon a special calendar to be known as the calendar for unanimous consent. On days when it shall be in order to suspend the rules the Speaker shall, immediately after the approval of the journal, direct the clerk to call the bills which have been for three days upon the unanimous consent calendar. Should objection be made to the consideration of any bill so called, it shall immediately be stricken from such calendar, but such bill may be restored to the calendar, at the instance of the member, and

if again objected to, it shall be immediately stricken from such calendar, and shall not be called twice on the same legislative day."

Sec. 1033. (4) There shall also be a calendar of motions to discharge committees as provided in section 4 of rule XXVII.

Motion Discharge Committee Calendar

Sec. 1034. Sec. 4, Rule XVII. "Any member may present to the clerk a motion to discharge a committee from further consideration of any public bill or joint resolution which may have been referred to such committee fifteen days prior thereto. All such motions shall be entered in the journal and printed on a calendar to be known as a calendar of motions to discharge committees. After the unanimous consent calendar shall have been called on any Monday and motions to suspend the rules have been disposed of it shall be in order to call up any such motion which have been entered at least seven days prior thereto. Recognition for such motions shall be in the order in which they have been entered. When such motion shall be called up, the bill shall be read by title only and no such motion shall be entertained as to a bill or joint resolution — the title of which contains more than one hundred words; after the reading of said bill by title the motion shall not be submitted to the House unless seconded by a majority. If such motion fails of a majority, it shall immediately be stricken from the calendar and shall not be thereafter placed thereon. If a majority do second the motion, debate on such motion shall be limited to twenty minutes, one-half thereof in favor of the proposition and one-half in opposition thereto. Such motions shall require for their adoption an affirmative vote of a majority of the membership of the House. Whenever such motion shall prevail the bill so taken from the consideration of a committee shall thereupon be placed upon its appropriate calendar and called up on call of committees from which any bill has been taken. It may be called up for consideration by any

member prior to any bill reported by such committee at a date subsequent to the discharge of said committee, provided, no member shall have upon the calendar more than two motions at the same time.

Sec. 1035. (In order to give a more comprehensive idea of the further practice of the House in considering bills it seems necessary to insert at this point the order of business of the House which is as follows:)

Order of Business. Rule XVIV

Sec. 1036. Sec. 1. The daily order of business shall be as follows:

First: Prayer by chaplain.

Second: Reading and approval of the journal.

Third: Correction of reference of public bills.

Fourth: Disposal of business on the Speaker's table.

Fifth: Unfinished business.

Sixth: The morning hour for the consideration of bills called up by committees.

Seventh: Motions to go into the committee of the whole on the state of the Union.

Eighth: Orders of the day.

Practice Under the Rule

Sec. 1037. The foregoing rule is the result of gradual evolution from the earliest time of Congress and was not put in present form until 1890.

Orders of the day are mentioned in the order of business, but in the practice of the House they have been obsolete for many years. This rule does not, however, bind the House to daily routine, because of the practice of making certain important subjects privileged. See Rule XI, Sec. 56, XVI, Sec. 9. On any day, however, when the order of business is interrupted by a privileged matter, the order of business goes on from the place of interrupting and after an adjournment the House begins again at the beginning. While privileged matters may interrupt the order of

business, they may do so only with the consent of a majority of the House, expressed as to appropriation bills by the vote of going into the committee of the whole to consider such bill, and as to conference reports, questions of privilege by raising and voting on the question of consideration. The only exception to the principle that a majority may prevent interruption is contained in rule XIV, sec. 7, which provides for a call of committees on Wednesdays.

Sec. 1038. With this combination of an order of business with privileged interruptions the House is enabled to give precedence to its most important business without at the same time losing the power by majority vote to go to any other bills on its calendar.

Privileged Matters Which May Interrupt the Order of Business

Sec. 1039. The privileged matters which may interrupt business are, in the order of their frequency, as follows:

- (1) General appropriation and revenue bills (rule XVI, sec. 9).
 - (2) Conference reports. (rule XXVIII, sec. 1)
 - (3) Special orders reported by the committee on rules for consideration by the House. (rule XI, sec. 56)
 - (4) Consideration by the House of amendments between the Houses after disagreement.
 - (5) Questions of privilege. (rule IX, sec. III)
 - (6) Privileged bills reported under the right to report at any time. (rule X, sec. 56)
 - (7) Call of committees on Wednesdays for bills on House and union calendars. (rule XXIV, sec. 7)
 - (8) Private business on Fridays (rule XXIV, sec. 6)
- Clark's Digest, pp. 390-391.

Disposal of Business on Speaker's Table

Sec. 1040. Rule XXIV, sec. 2. Business on the Speaker's table shall be disposed of as follows: Messages from the President shall be referred to the proper com-

mittee without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions and messages from the Senate may be referred to the appropriate committees in the same manner and the same right of correction as public bills presented by members; but House bills with Senate amendments which do not require consideration in a committee of the whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in committee of the whole, be disposed of in the same manner on motion directed to be made by such committee.

Practice Under Rule

Sec. 1041. Such portions of messages from the Senate as require action by the House, all messages from the President except those transmitting his objections to bills, and all communications and reports from heads of departments, go to the Speaker's table when received, to be disposed of under this rule, all the President's messages and such portions of Senate message as, being House bills with Senate amendments do not require consideration in the committee of the whole are laid before the House for action, but communications other than messages from the President, all portions of Senate messages requiring consideration in committee of the whole, and Senate bills of all kinds (with the exception noted in the rule) are referred to the appropriate standing committees under direction of the Speaker, without action by the House.

Sec. 1042. A House bill returned with Senate amendments involving a new matter of appropriation, whether with or without a request for a conference, is referred directly to a standing committee, and on being reported therefrom is referred directly to the committee of the whole. A Senate bill to come before the House directly from the Speaker's table must conform to the conditions prescribed by the rule, and must come to the House after

and not before the House bill "substantially the same" has been placed on the House calendar. House bills must be correctly placed on the House calendar. In determining whether a House bill is substantially the same as Senate bill, amendments recommended by House committee must be considered. This rule applies to private as well as to public Senate bills and to resolutions as well as to bills. Although a committee must authorize the calling up of the Senate bill, the actual motion need not be made by a member of the committee. Authority of committee to call up a bill must be given at a formal meeting of the committee. (Clark's Digest, pp. 392)

Unfinished Business

Sec. 1043. XXIV, sec. 3. "The consideration of unfinished business in which the House may be engaged at an adjournment, except business in the morning hour shall be resumed as soon as the business on the Speaker's table is finished, and at the same time of day thereafter until disposed of, and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules."

Practice Under Rule

Sec. 1044. The business in which the House may be engaged at an adjournment means, literally, business in the House, as distinguished from the committee of the whole, and it further means business in which the House is engaged in its general legislative time, as distinguished from the special periods set aside for special business, like the morning hour for calls of committees, Fridays, for private bills, etc. In general, all business unfinished under the rule, but there are a few exceptions. A motion relating to the order of business does not recur as unfinished business on a succeeding day, even though the yeas and nays were ordered on it. The question of consideration also, when not disposed of at an adjournment does not recur as unfinished business on a succeeding day.

Sec. 1045. When the House adjourns before voting on a proposition on which the previous question has been ordered, either directly or by the terms of a special order, the question comes up the next day immediately after the reading of the journal, regardless of the requirements of the rule for the order of business. If several bills come over in this manner, they have precedence in the order in which the several motions for the previous question were made. The rule excepts by its terms certain classes of business which are considered in periods set apart for classes of business, viz.: (a) Bills considered in the morning hour for the call of committees.

(a) Bills in committee of the whole.

(b) Private bills considered on Fridays.

(c) Bills brought up under rule setting apart days for motions to suspend the rules. A bill brought up in the morning hour and undisposed of when the call ceases for the day remains as unfinished business in the morning hour, i. e., it is considered when the House next goes to a call of committees. Business unfinished when the committee of the whole rises remains unfinished. To be first considered when the House next forms the committee of the whole to consider that business. Private bills unfinished go over to the next Friday and must be considered before the motion to go into the committee to consider other private bills. But when public business is considered on Friday, the unfinished business goes over to the next legislative day. Bills going over from calendar Wednesday with previous question ordered, it should be disposed of on the next legislative day.

Sec. 1046. Rule XXIV, Sec. 4. **The Morning Hour for the Call of Committees.** After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order, and then select committees and each committee when named may call up for consideration any bill reported by it on previous day, and on the House calendar and if the Speaker shall not complete the call of the committee before the House passes to

other business, he shall resume the next call where he left off giving preference to the last bill under consideration. Provided, that whenever any committee shall have occupied the morning hour on two days, it shall not be in order to call up any other bill until the other committees have been called in their turn.

Practice Under Rule

Sec. 1047. The foregoing rule is known as the morning hour rule. Originally the morning hour was a fixed period of sixty minutes. The rule relates only to such bills as are on the House calendar, and the hour is not limited to sixty minutes, thus enabling a bill once taken up to be concluded, in other words, it does not terminate until the call is exhausted or until the House adjourns or votes to go into the committee of the whole, which motion must be made at the end of the sixty minutes. Before the expiration of the sixty minutes, the Speaker sometimes declines to permit the call to be interrupted even by unanimous consent, when the business for which the call is interrupted is concluded, the call is resumed unless there be other interrupting business, or the House adjourns.

Sec. 1048. A bill once brought up on the call continues in that order of business until disposed of, unless withdrawn by authority of the committee before action which puts it in possession of the House.

Sec. 1049. It may not be made a special order for a future day by a motion to postpone to a day certain. In order to be called up in this order a bill must actually be on the House calendar and properly there, in order to be considered. In case the authority of a committee to call up a bill is disputed the Speaker does not consider it his duty to decide the question but has made decisions on statements from the chairman and other members of the committee. (Clark's Digest, p. 398)

Sec. 1050. Rule XXIV, Sec. 5. **Interruption of the Call of Committee by Motion to go into Committee of Whole.** After one hour shall have been devoted to the

consideration of bills called up by committee, it shall be in order, pending consideration thereof to entertain a motion to go into the committee of the whole house, or when authorized by a committee to go into the committee of whole to consider a particular bill, to which motion one amendment only designating another bill, may be made, and if either motion be determined in the negative, it shall not again be in order to make either motion again until the disposal of the matter under consideration or discussion.

Practice Under Rule

Sec. 1051. The words of this rule "after one hour" has been interpreted to mean a less time in case the call of committees shall have exhausted itself before the expiration of one hour, but not otherwise, after the House has been in committee of the whole under this order and has risen and reported, and the report has been acted upon by the House, other motions to go into the committee of the whole to consider the bills, are in order. The motion to go into the committee generally may be made by the individual member, **but when it is proposed to designate a particular bill, he must have the authority of a committee.** The amendment to the motion to consider a particular bill must refer to a bill on the union calendar. This order of business is not used for consideration of privileged bills, but is used entirely for unprivileged bills. (Clark p. 399)

Interruption of Regular Order on Fridays

Sec. 1052. Rule XXIV, Sec. 6. On Friday of each week, after the disposal of such business on the Speaker's table as requires reference only, it shall be in order to entertain a motion for the House to resolve itself into the committee of the whole to consider business on the Friday calendar in the following order: On the second and fourth Fridays of each month, preference shall be given to the consideration of private pension claims and bills removing political disabilities and bills removing the charge of deser-

tion. On every Friday except the second and fourth the House shall give preference to the consideration of bills reported from the committee on war claims and the committee on claims alternating between the two committees.

Practice Under Rule

Sec. 1053. Under this rule the unfinished private business must be considered before the motion to go into the committee of the whole is in order. This rule does not interfere with highly privileged motions to go into the committee of the whole to consider appropriation or revenue bills which may be made immediately after the reading of the journal on Fridays as on other days and at any time of the day has precedence of the motion to go into the committee of the whole to consider the private calendar.

Wednesday's Call of Committees

Sec. 1054. Rule XXIV, Sec. 7. On Wednesday of each week no business shall be in order, except as provided by sec. 4 of this rule, unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine. On such a motion there may be debate not to exceed five minutes for and against. On a call of committees under this rule bills may be called up from either House on the union calendar, excepting bills which are privileged under the rules, but bills called up from the union calendar shall be considered in committee of the whole house on the state of the Union. This rule shall not apply during the last two weeks of the session. It shall not be in order for the Speaker to entertain a motion for a recess on any Wednesday except during the last two weeks of the session.

Practice Under Rule

Sec. 1055. When a bill on the union calendar is called upon the calendar, Wednesday, the House automatically resolves itself into the committee of the whole. When there is unfinished business on the union calendar the Speaker declares the House in committee of the

whole without motion. Question of consideration may be raised in the committee of the whole, after the House has automatically resolved itself into the committee of the whole to consider a bill. In a ruling Speaker Reed said: "The House has the right to do as it pleases about any bill, and should have a chance to express its opinion. If it does not want to consider it, it has a perfect right to say it will not consider it. That is no abridgment of anybody's privilege. It is to maintain the integrity of the House. On another occasion Mr. Reed said: **"The purpose of all rules is to expedite business, not retard it. That is the correct light in which to examine them all."**

The question of consideration is always in order against any bill called up.

Reading, Engrossment and Passage of Bills

Sec. 1056. Rule XXI. Sec. 1. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be: "Shall the bill be engrossed and read a third time?" and if decided in the affirmative it shall be read the third time by title, unless the reading in full is demanded by a member, and the question shall be put on its passage.

Practice Under Rule

Sec. 1057. Formerly a bill was read for the first time by title at the time of its introduction, but since 1890, all bills have been introduced by filing them with the clerk as explained elsewhere, this new procedure rendering a reading by title impossible at that time:

Second Reading of Bill

But the titles of all bills introduced are printed in the journal, thus carrying out the real purposes of the rule. The second reading formerly occurred in the House before commitment; but as the processes of handling bills have

been shortened; the second reading now occurs for bills considered in the House alone, when they are taken up for action, and, for bills considered in the committee of the whole, when they are taken up in that committee.

Sec. 1058. A bill read in full in committee of the whole and reported therefrom is not read in full again, when acted on in the House. But when a bill is taken up in the committee of the whole, its reading in full may be demanded before general debate begins, although it may have just been read in the House. The Speaker makes it his duty, ordinarily, to object to a request for unanimous consent that a bill may be acted on without being read.

Demand for Full Reading of Bill

Sec. 1059. The right to demand the full reading of the engrossed bill, exists only immediately after it has passed to be engrossed and before it has been read a third time by title, or the yeas and nays ordered on its passage. The demand for the reading of an engrossed bill, lays the bill aside until it can be engrossed. A special order does not deprive a member of his right to demand the reading of an engrossed bill, and a privileged motion may not intervene before the third reading. (Clark, Sec. 812)

Action on Committee Amendments

Sec. 1060. Under the present system of the House committee reports are not acted upon when received. But when the bills are taken up for consideration on second reading, after the clerk completes the reading of the bill, he then reads the committee amendments, if any, and such amendments are disposed of before the bill is opened to amendment generally. **It is in order to offer amendments to committee amendments. Frequently the House orders the previous question on the committee amendments and the bill to its final passage, thus preventing further amendment. After the second reading of the bill it is then open to debate and amendment.**

Sec. 1061. A bill in the House (as distinguished from the committee of the whole) is amended pending engrossment and third reading the question on engrossment and third reading being decided in the negative, the bill is rejected. A bill must be considered and voted on by itself. When the two Houses pass similar but distinct bills on the same subject it is necessary that one or the other House act on the same subject again. (Clark, sec. 812)

Consideration in Committee of Whole

Sec. 1062. Public bills which do not raise revenue or make or authorize appropriations of money or property do not go through this stage. All other bills are considered in committee of the whole. The stages of consideration are: general debate; reading for amendment under the five-minute rule; order to lay aside with a favorable recommendation or to rise and report; reporting to the House. Bills considered in the committee of the whole are read in full in that committee and when reported out are not read in full again but are subject to further debate and amendments in the House, unless the previous question is ordered at once.

Engrossment and Third Reading

Sec. 1063. The question on House bills is taken on ordering the engrossment and third reading at one vote. If decided in the affirmative, the reading a third time usually takes place at once by title, but any member may demand the reading in full of the engrossed copy. Senate bills come to the House in engrossed form and on Senate bills the question is put on third reading alone the question on engrossment and third reading is not made from the floor, but is put by the Speaker under the rule. (Clark, p. 450)

Sec. 1064. Note: The procedure of Congress in reading bills a second time on the same day could not be followed by our assembly because the constitution provides for readings on different days, except by suspension of

rules, i. e., the question on engrossment and third reading could be divided and taken on engrossment first and then on suspension of rules and third reading.

Passage

Sec. 1065. The question on passage of a bill is put by the Speaker without motion from the floor.

Transmission to the Senate by Message

Sec. 1066. The message merely informs the Senate that the House has passed the bill and requests concurrence of that body. It is customary for the Speaker to order the clerk to transmit a bill to the Senate after its passage without motion to that effect.

Consideration by Senate

Sec. 1067. In the Senate, House bills are usually referred to committees for consideration and report. After which they have their several readings with opportunities for debate and amendment. The same procedure takes place in the House as to bills sent from the Senate.

Return of, from Senate without Amendment

Sec. 1068. If the Senate passes a House bill without amendment it returns it to the House where it is at once enrolled on parchment for signature. A bill thus passed without amendment goes into possession of the clerk, and is not laid before the House prior to enrollment. If the Senate rejects a House bill it informs the House. Similar procedure occurs when the House passes a Senate bill without amendment.

Return of, from Senate with Amendment

Sec. 1069. House bills returned with Senate amendments go to the Speaker's table. If any Senate amendments require consideration in committee of the whole, the bill is referred informally by the Speaker to the standing committee having jurisdiction and when that committee

reports the bill with recommendation it is referred to committee of the whole House to be then considered and reported to the House. When Senate amendments do not require consideration in the committee of the whole the bill comes directly before the House from the Speaker's table.

Consideration of Senate Amendments by the House

Sec. 1070. When a bill with Senate amendments comes before the House, the House takes up each amendment by itself and may vote to agree to it, agree to it with amendment, or to disagree to it. If it disagrees it may ask a conference with the Senate or it may send notice of its disagreement, leaving it to the Senate to recede, or insist or ask for conference.

Settlement of Differences by Conferences

Sec. 1071. When disagreements are referred to conferences, the managers embrace their settlement in a report, which is acted upon by each House as a whole. When this report is agreed to the bill is passed, and is at once enrolled for signature.

Enrollment

Sec. 1072. A bill is enrolled in the House in which the bill originated.

Examination by the Committee on Enrolled Bills

Sec. 1073. While the committee on enrollment is described as a joint committee, each branch acts independently. The chairman of each branch affixes to the bills examined a certificate that the bill has been truly enrolled.

Signing by Speaker and President of Senate

Sec. 1074. The enrolled bill is first laid before the House and signed by the Speaker, whether it be a House or Senate bill, after which it is transmitted to the Senate and signed by the President of that body.

Transmitted to President

Sec. 1075. The chairman of the committee on enrolled bills for each House carries the bills from his House to the President. A report of the bills taken to the President each day is made by the chairman to the House and entered on the journal.

Motions, to be Entered in Journal

Sec. 1076. Rule XVI, sec. 1. Every motion made to the House and entertained by the Speaker shall be entered on the journal with the name of the member making it, unless it is withdrawn the same day.

Practice Under Rule

Sec. 1077. Because of this rule it has been held not in order to amend or strike out a journal entry setting forth a motion exactly as made.

Sec. 1078. A motion not entertained is not entered on the journal.

Sec. 1079. Sec. 2. When a motion has been made, the Speaker shall state it or (if it be in writing) cause it to be read aloud by the clerk before being debated, and it shall then be in possession of the House but may be withdrawn at any time before a decision or amendment.

Practice Under Rule

Sec. 1080. In actual practice a second to a motion is never required. The House always insists that a motion shall be stated or read before debate shall begin. It is the duty of the Speaker to put a motion in order under the rules and practice without passing on its constitutional effect. Under certain circumstances, a member may make a double motion. Even after the affirmative side has been taken on a division the withdrawal of a motion has been permitted, also after a viva voce vote and the ordering and appointment of tellers—a decision which prevents withdrawal may consist of the ordering of the yeas and nays,

either directly on a motion, or on a motion to lay on the table the demand for the previous question. A member having the right to withdraw a motion has also the right to modify the motion. (Clark, sec. 762)

Precedence of Privileged Motions

Sec. 1081. Sec. 4. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which questions shall be decided without debate). To postpone to a day certain, to commit or to amend or postpone indefinitely, which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided shall be again allowed on the same day at the same stage of the question. After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a member who is opposed to the bill or joint resolution.

Practice Under Rule

Sec. 1082. Its application is confined to cases wherein a question is under debate. It has been held that a question ceases to be under debate after the previous question has been demanded. (V, 5519) But with the exception of the motion to adjourn it is obvious that the motions specified in this rule can only be used when some question is under debate.

CHAPTER XIX

IMPORTANT RULES AND PRACTICE OF NATIONAL HOUSE

The Previous Question

Sec. 1083. Rule XVII, Sec. 1. There shall be a motion for the previous question, which, being ordered by a majority of members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments or be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage for the Speaker to entertain and submit a motion to commit, with or without instructions to a standing or select committee.

Sec. 1084. Rule XVII, sec. 2. A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the Speaker that a quorum is not present.

Sec. 1085. Rule XVII, sec. 3. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise without debate.

Practice Under Rule

Sec. 1086. Under the foregoing rule forty minutes of debate are allowed whenever the previous question is ordered on a proposition on which there has been no debate

(see rule XVII, sec. 3) but if there has been debate even though very brief, before ordering the previous question, the forty minutes are not allowed. If the forty minutes are denied, it should be because the preliminary debate was on the merits of the main question. The forty minutes may not be demanded on incidental motions, but is confined to the main question. (V, 5497, 5498)

Sec. 1087. It may not be demanded on a proposition which has been debated in the committee of the whole (IV, 5505) or on a conference report if the subject matter of the report was debated before being sent to conference. (V, 5506 5507) when the previous question is ordered merely on an amendment which has not been debated, the forty minutes are allowed, (V, 5503) but the same liberty of debate is not allowed when the question covers both an undebated amendment and the original proposition (V, 5504). The forty minutes is divided one-half to those favoring and the other half to those opposing.

Sec. 1088. The provisions of the rule define the application of the previous question with considerable accuracy. It is often ordered on undebatable propositions to prevent amendment (V, 5473, 5490) but may not be moved on a motion that is both undebatable and unamendable (VI, 3077), it may be demanded while members still desire to offer amendments (IV, 4926, 2929).

Sec. 1089. If a member in charge of a bill claims the floor in debate, another member may not demand the previous question (II, 1458) but having the floor any member may make the motion although the effect may be to deprive the member in charge of the control of the bill.

The Motion to Refer as Provided in the Rule

The motion to commit provided for in the rule for the previous question is not debatable, but is amendable, unless the previous question is ordered on it.

Sec. 1090. The motion to commit after the previous question is ordered applies to resolutions, the point of order being raised that the only referred to bills. Mr.

Speaker Carlisle ruled that **"the term 'bill' as used in the rule was a generic term and included all legislative propositions which could properly come before the House."** (V, 5572)

Sec. 1090-a. The previous question having been ordered on a motion to agree to a Senate amendment to a House bill, a motion to commit is in order (V, 5575). The motion to commit may be applied to a motion to amend the journal (V, 5574). The motion to refer provided in this rule may be made pending the demand for the previous question on the passage (V. 5576).

Sec. 1090-b. Where the motion for the previous question covers all stages of the bill to the final passage, the motion to commit is made after the third reading and is not in order before engrossment or third reading or pending the motion for the previous question. (V. 5578). in rendering the foregoing decision Speaker Reed said: "The practical principle involved is this: After the House has proceeded to amendment of the bill, and the bill has reached its final position, ready to be engrossed, or ordered to be engrossed, then, if the House is dissatisfied with it, it may move to commit, or recommit, as the phraseology ordinarily is. That is to enable the House to correct its action in case the bill when finished is not satisfactory (V, 5578). After the previous question is ordered the motion to commit may be amended, as by adding instructions, unless such amendment be precluded by moving the previous question on the motion to commit.

Previous Question

Sec. 1091. **Rules, Practice and Precedents of Congress.** The previous question may be moved on a single motion, on a series of allowable motions, or an amendment or amendments, and on a bill to its final passage or rejection.

A call of the House is not in order after the previous question is ordered.

After the motion for the previous question is made, all incidental questions of order, whether on appeal or otherwise, are decided without debate.

The previous question applies to a question of privilege the same as to any other question.

The previous question may be moved on both the motion to refer and on the pending bill or resolution.

The previous question covers the main question, but does not apply to incidental questions arising therefrom.

The previous question may be applied to undebatable questions in order to prevent amendments.

It is in order for a member to make a motion and thereupon demand the previous question on the motion.

The demand for the previous question does not deprive a member of his right to raise the question of consideration.

After the previous question is demanded, there may be no further debate, not even the asking of a question.

After the previous question has been ordered on a bill and pending amendments, further amendments may not be offered.

Sec. 1092. WHEN A VOTE TAKEN UNDER THE OPERATION OF THE PREVIOUS QUESTION IS RECONSIDERED, THE MAIN QUESTION STANDS DIVESTED OF THE PREVIOUS QUESTION AND MAY BE DEBATED AND AMENDED WITHOUT RECONSIDERATION OF THE MOTION FOR THE PREVIOUS QUESTION.

THE PREVIOUS QUESTION IS EXHAUSTED BY THE VOTE ON THE MOTION ON WHICH IT IS ORDERED, AND CONSEQUENTLY A MOTION TO RECONSIDER THE VOTE ON THE MAIN QUESTION IS DEBATABLE.

When the House adjourns before voting on a proposition on which the previous question has been ordered, the question comes up the next day immediately after the reading of the journal, superseding the order of business.

The previous question is the only motion used in the House for closing debate. It is not in order in the committee of the whole.

The motion to lay on the table may not be applied to the motion for the previous question.

The motion to lay on the table is not in order after the previous question is ordered.

After the previous question is ordered on a bill, a motion to postpone the bill is not in order, in other words, the motion to postpone should not be entertained after the previous question has been ordered.

The motion to commit may be amended after the previous question is ordered, as by adding instructions, unless such amendment be precluded by moving the previous question on the motion to commit.

The motion to suspend the rules may be admitted after the previous question has been ordered.

A motion may be withdrawn after the previous question has been ordered on it.

Sec. 1093. The motion to commit, made after the previous question is ordered is not debatable. Under the rule but one motion to commit is in order. (V, 5582) When the previous question has been ordered on a resolution and a pending amendment, the motion to commit should be made after the vote on the amendment. (V, 5585)

The vote whereby a bill was passed having been reconsidered, amendments having been made and the third reading ordered again under operation of the previous question, a motion to recommit is in order, although such motion was previously rejected. (V, 5590)

A bill recommitted under the rule of the previous question and reported back to the House must again be put on its passage to be engrossed for a third reading (V, 5591) The motion to lay on the table may not be applied to the motion for the previous question. (V, 5410)

The Previous Question of the National House

Sec. 1094. The previous question of the National House of Representatives is strictly of American conception and is the result of more than a century of development. In the earlier years of Congress the House adopted

the English previous question, which was a device for removing from consideration a question which might seem to the majority undesirable to discuss further or act upon.

Sec. 1095. The continental Congress adopted for its guide *Lex Parliamentaria*, and the rules of the first Congress under the constitution, which were adopted at the suggestion of those members who had seen service in the continental Congress and from which the rule has been developed to its present form. The previous question has been used in the House since 1811 as an instrument for closing debate, and in fact is the only motion used for closing debate in the House itself.

The motion for the previous question (as now used) when agreed to, has the effect of cutting off all debate (except forty minutes on questions not before debated) and bringing the House to a vote. The previous question may be moved on a single motion, on a series of allowable motions, on an amendment or amendments and on a bill to its final passage or rejection.

Pending a vote on the passage of a bill under the operation of the previous question, a motion to commit to a standing committee or select committee, with or without instructions, is in order. The word "bill" as used in the rules is a generic term for any legislative proposition.

Sec. 1096. The reason for allowing the motion to commit after ordering the previous question is to afford the amplest opportunity to test the sense of the House as to whether or not the bill is in the exact form it desires.

Sec. 1097. The old form of putting the question "Shall the main question be now put?" is never used in the House. The Speaker now after announcing that the member demands the previous question, puts the question thus: "As many as are in favor of ordering the previous question will say aye; as many as are opposed will say no." The present perfected rule of the House is a flexible, reasonable and efficient instrumentality for restricting debate and forwarding the business. A call of the House is not in order after the previous question is ordered unless it ap-

pears on an actual count by the Speaker that a quorum is not present. (V, 5447)

Sec. 1098. After the motion is made for the previous question all incidental questions of order, whether on appeal or otherwise are decided without debate. (Rule XVII, sec. 3)

Sec. 1099. The motion for the previous question may not include a provision that it shall take effect at a certain time. (V, 5457)

Less than a quorum may order the previous question on a motion incident to a call of the House. (V, 5458)

The previous question may be moved on a proposition to censure a member, although the effect of it might be to prevent him from making an explanation or defense. (V, 5459)

The previous question applies to a question of privilege as to any other question. (V, 5460)

A single motion for the previous question may be applied only to one bill and only by unanimous consent may the previous question be moved on several bills with one motion. (V, 5461)

The previous question may be moved on both the motion to refer and on the pending resolution. (V, 5466)

The previous question covers the main question, but does not apply to incidental questions arising therefrom. (V, 5467)

The ordering of the previous question to the final passage of a bill excludes a motion to strike out the title. (V, 5471)

When a substitute amendment is offered to a report of the committee of the whole with amendments, the previous question, may be ordered on the bill and amendments to final passage. (V, 5472)

A previous question may be applied to the nondebatable motion to limit general debate in the committee of the whole in order to prevent amendment. (V, 5473)

or decision is had thereon. Amendments to the title of a bill shall not be in order until after its passage, and shall be without debate.

Practice Under Rule

Sec. 1104. It is not in order to offer more than one motion to amend of the same nature at a time (V, 5755), and two independent amendments may not be voted on at once only by unanimous consent of the House (V, 5779), but the four motions specified by the rule may be pending at one and the same time (V, 5753). **An amendment in the third degree is not specified by the rule and is not permissible** (V, 5754) even when the third degree is in the nature of a substitute for an amendment to a substitute (V, 5791).

But a substitute amendment may be amended by striking out all after its first word, and inserting a new text (V, 5793, 5794) as this, while in effect a substitute, is not technically so, for the substitute always proposed to strike out all after the enacting clause, in order to insert a new text (V, 5785 footnote).

Sec. 1105. An amendment in the nature of a substitute may be proposed before amendments to the original text have been acted upon, but may not be voted on, until such amendments have been disposed of (V, 5753, 5787). When a bill is considered by sections or paragraphs, and amendment in the nature of a substitute is properly offered after reading for amendment is concluded. (V, 5788) But when it is proposed to offer a single substitute for several paragraphs of a bill, which is being considered by paragraphs or sections, the substitute may be moved to the first paragraph, with notice, that if agreed to, motions will be made to strike out the remaining paragraphs. (V, 5795) The substitute amendment as well as the original proposition may be perfected, before the vote on it is taken. (V, 5786) An amendment in the nature of a substitute having been agreed to, the vote is then taken on the original proposition as amended (II, 983; V, 5779, 5800). While the rule provides that neither an ordinary or substitute

amendment may be withdrawn in the House (V, 3995) or in the House as in committee of the whole (V, 3996) but not be withdrawn in committee of the whole (V, 3997).

Sec. 1106. The motion to refer the previous question not being ordered, has precedence of the motion to amend. (V, 5555). Amendments reported by a committee are acted on before those offered from the floor (V, 3998) but there is a question as to the extent to which the chairman of the committee reporting a bill should be required to offer amendments to perfect it in principle, in order members. (II, 1450) The motion to strike an amending clause has precedence of the motion to amend, and may be offered while an amendment is pending (V, 3999). With some exceptions an amendment may be offered to a secondary and privileged motion (V, 3999). The motions to postpone, refer, amend, etc., may be made up to the day to which the House shall adjourn on a particular day (V, 5754) but the motions for the previous question, to lay on the table, to adjourn (V, 3999) and to appoint a committee of the whole to consider a bill, may not be amended (IV, 3076, 3079).

Amendments of the Senate

Sec. 1107. Rule XX. Any amendment or change to any House bill shall be subject to the previous question; it shall first be considered in the committee of the whole House, if originating in the House, or in the Senate, if originating in that body, at that point.

Practice Under Rule

Sec. 1108. A Senate amendment which is merely a decrease of the amount of an appropriation and does not involve new and distinct expenditures is not reported to the committee of the whole. (IV, 4795)

When in the House an amendment is made to a bill which involves an appropriation for another purpose than that of the Senate amendment, the House goes into committee of the whole to consider it. (IV, 4795) When an amendment

or decision is had thereon. Amendments to the title of a bill shall not be in order until after its passage, and shall be without debate.

Practice Under Rule

Sec. 1104. It is not in order to offer more than one motion to amend of the same nature at a time (V, 5755), and two independent amendments may not be voted on at once only by unanimous consent of the House (V, 5779), but the four motions specified by the rule may be pending at one and the same time (V, 5753). **An amendment in the third degree is not specified by the rule and is not permissible** (V, 5754) even when the third degree is in the nature of a substitute for an amendment to a substitute (V, 5791).

But a substitute amendment may be amended by striking out all after its first word, and inserting a new text (V, 5793, 5794) as this, while in effect a substitute, is not technically so, for the substitute always proposed to strike out all after the enacting clause, in order to insert a new text (V, 5785 footnote).

Sec. 1105. An amendment in the nature of a substitute may be proposed before amendments to the original text have been acted upon, but may not be voted on, until such amendments have been disposed of (V, 5753, 5787). When a bill is considered by sections or paragraphs, and amendment in the nature of a substitute is properly offered after reading for amendment is concluded. (V, 5788) But when it is proposed to offer a single substitute for several paragraphs of a bill, which is being considered by paragraphs or sections, the substitute may be moved to the first paragraph, with notice, that if agreed to, motions will be made to strike out the remaining paragraphs. (V, 5795) The substitute amendment as well as the original proposition may be perfected, before the vote on it is taken. (V, 5786) An amendment in the nature of a substitute having been agreed to, the vote is then taken on the original proposition as amended (II, 983; V, 5779, 5800). While the rule provides that neither an ordinary or substitute

amendment may be withdrawn in the House (V, 5753) or in the House as in committee of the whole; (IV, 4935) it may not be withdrawn in committee of the whole. (V, 5221)

Sec. 1106. The motion to refer, the previous question not being ordered, has precedence of the motion to amend. (V, 5555). Amendments reported by a committee are acted on before those offered from the floor (V, 5773) but there is a question as to the extent to which the chairman of the committee reporting a bill should be recognized to offer amendments to perfect it in preference to other members. (II, 1450) The motion to strike out the enacting clause has precedence of the motion to amend, and may be offered while an amendment is pending (V, 5328, 5331). With some exceptions an amendment may attach itself to secondary and privileged motions (V, 5754). Thus, the motions to postpone, refer, amend, for a recess and to fix the day to which the House shall adjourn may be amended (V, 5754) but the motions for the previous question, to lay on the table, to adjourn (V, 5754) and to go into the committee of the whole to consider privileged bill may not be amended (IV, 3078, 3079).

Amendments of the Senate

Sec. 1107. Rule XX. Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the committee of the whole House, if originating in the House, it would be subject to that point.

Practice Under Rule

Sec. 1108. A Senate amendment which is a modification merely of a House proposition, like the increase or decrease of the amount of an appropriation, and does not involve new and distinct expenditure is not required to be considered in committee of the whole. (IV, 4797, 4806)

When in the House an amendment is offered to provide an appropriation for another purpose than that of the Senate amendment, the House goes into committee of the whole to consider it. (IV, 4795) When an amendment is

referred the entire bill goes to the committee of the whole (IV, 4808) but the committee considers only the Senate amendments (V, 6192).

Sec. 1109. It usually considers all the amendments, although they may not be within the rule requiring such consideration. (V, 6195) The House may, however, proceed to the disposition of those Senate amendments not requiring consideration in committee of the whole, before going into the committee on those affected by the rule. (IV, 4807) In committee of the whole a Senate amendment, even though it be very long, is considered as an entirety and not by paragraphs or sections. (V, 6194) It has been decided that each amendment is subject to general debate and amendment under the five-minute rule. (V, 6193, 6196)

Conference Reports

Sec. 1110. Rule XXVIII. Sec. 1a. The presentation of reports of committees of conference shall always be in order, except when the journal is being read, when the roll is being called or the House is dividing on a proposition. Under the language of the rule, a conference report may be presented while a member is occupying the floor in debate (V, 6451), while a bill is being read (V, 6448), after the yeas and nays have been ordered (V, 6449, 6450) and during a call of the House if a quorum be present. (V, 6456)

It even takes precedence of the motion to reconsider (V, 5605) and to adjourn (V, 6451, 6453) although as soon as the report is presented the motion to adjourn may be put (V, 6451, 6453) also the consideration of a conference report may be interrupted, even in the midst of the reading of the statement, by the arrival of the hour previously fixed for a recess. (V, 6524) It may not be presented after a vote by tellers pending the question of ordering a yea and nay vote. (V, 6447) It has also been permitted to intervene when a special order provides that the House shall consider a certain bill until the same is disposed of. (V, 6454)

Of course a question of privilege which relates to the

integrity of the Houses as an agency for action may not be required to yield precedence to a matter entitled to priority merely by the rules relating to the order of business. (V, 6454)

The report of the committee must be in writing and signed by a majority of the managers of each House.

Sec. 1111. If conferees of the House agreeing to conference surrenders papers to the House asking conference, report can be received first by the House asking conference. Speaker Clark said: "Conferees are limited to differences between the two Houses and cannot insert in report matter not germane thereto." 1st Sess. 62nd Congress, p. 3913.

The parliamentary law on the subject of conference and which is observed in Congress is discussed as follows by Mr. Jefferson in section XLVI of his Manual:

"It is on the occasion of amendments between the Houses but may be asked in all cases of difference of opinion between the two Houses on matters depending between them. **The request of a conference, however, must always be by the House which is possessed of the papers.**"

As stated in the foregoing, the House of Representatives follows the principles set forth in this paragraph.

Practice

Sec. 1112. A conference may be asked on only a portion of the amendments in disagreement, leaving the differences as to the remainder to be settled by the action of the two Houses themselves. (V, 6401) In very rare instances, conferences have been asked by one House after the other has absolutely rejected a main proposition. (IV, 3442, V, 6258) In exceptional instances conferences have been asked as to legislative matters when no propositions relating thereto were pending. (V, 6255; 6257)

Sec. 1113. The parliamentary law provides that the request for a conference must always be by the House which is possessed of the papers. It has been the most regular practice of the House disagreeing to amendments

to leave the asking of a conference to the other House if it should decide to insist. (V, 6278, 6285, 6324).

Sometimes, also, one House disregards the request of the other and recedes from its disagreement, thereby rendering a conference unnecessary. (V, 6316, 6318)

Sec. 1114. A bill returned to the House with the request for a conference is sometimes indefinitely postponed. (V, 6199) The motion to ask a conference is distinct from the motion to agree or disagree to amendments of the other House (V, 6268) and it is not in order until the House has disposed of the preferential motions to agree, disagree, recede or insist. (V, 6269, 6270) When a conference results in disagreement a motion for a new conference is privileged. (V, 6586) When a motion to request a conference is rejected, it may not be repeated at the same stage.

Sec. 1115. While usual, it is not essential that the House in asking a conference transmit the names of its managers at the same time. (V, 6405) The managers properly so-called (V, 6335) constitute practically two distinct committees, each of which acts by a majority. (V, 6334, Clark)

Reconsideration

Sec. 1116. Rule XXVIII. Sec. 1. When a motion has been made and carried or lost, it shall be in order for any member of the majority on the same or succeeding day, to move the reconsideration thereof, and such motion shall take precedence of all other questions, except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any member may call it up for consideration. Provided, that such motion, if made during the last six days of a session, shall be disposed of when made.

Practice Under Rule

Sec. 1117. The motion to reconsider was used in the continental Congress and in the House of Representatives

from its first organization in 1789. This motion may not be used in committee of the whole (IV, 4716, 4718) or in the House during the absence of a quorum when the vote proposed to be reconsidered requires a quorum (V, 5606).

But on votes incident to a call of the House the motion to reconsider may be entertained and also laid on the table, although a quorum may not be present. (V, 5607, 5608)

The mover of a proposition is entitled to prior recognition to move to reconsider (II, 1454). A member may make the motion at any time without abandoning a prior motion made by himself and pending (V, 5610). The provision of the rule that the motion may be made by "any member of the majority" is construed to mean in the case of a tie vote, any member of the prevailing side (V, 5615, 5616) and the same construction applies in case of a two-thirds vote (II, 1656; V, 5617, 5618).

Sec. 1118. When the yeas and nays have not been recorded in the journal, any member, irrespective of whether he voted with the majority or not, may make the motion to reconsider (V, 5611, 5613, 5689) but a member who was absent may not make the motion to reconsider. (V, 5614) The precedence given the motion by the rule, permits it to be made even after the previous question has been demanded (V, 5656) or while it is operating. (V, 5657, 5662)

Sec. 1119. The motion to reconsider the vote on the engrossment of a bill may be admitted after the previous question has been moved on the motion to postpone (V, 5663) and a motion to reconsider the vote on third reading may be acted on after a motion for the previous question on the passage has been made. (V, 5656) It also takes precedence of the motion to go into the committee of the whole, or even a demand that the House return to the committee of the whole, after the appearance of a quorum. (IV, 3087) But in a case wherein the House had passed a bill and disposed of a motion to reconsider the vote on its passage, it was decided to be too late to reconsider

the vote sustaining the decision of the chair which brought the bill before the House. (V, 5652) After a conference has been agreed to and the managers for the House appointed, it is too late to move to reconsider the vote whereby the House acted on the amendments in disagreement. (V, 5664)

Sec. 1120. While the motion has high privilege for entry, it may not be considered while another question is before the House. (V, 5673, 5676) When it relates to a bill belonging to a particular class of business, consideration of the motion is in order only when that class of business is in order. (V, 5677, 5681). It may then be called up at any time; but is not the regular order until called up. (V, 5682) When once entered it may remain pending indefinitely. (V, 5684 Clark)

Sec. 1121. A motion to reconsider may be entertained, although the bill or resolution to which it applies may have gone to the other House, or to the President. (V, 5666, 5668) The fact that the House had informed the Senate that it had agreed to a Senate amendment to a House bill, does not prevent a motion to reconsider vote on agreeing. (V, 5672)

Sec. 1122. When a motion is made to reconsider a vote on a bill that has gone to the Senate, a motion to recall the bill is privileged. (V, 5669, 5670) The motion to reconsider may be applied once only to a vote ordering the previous question. (V, 5655) A vote agreeing to the order of the House has been reconsidered although the execution of the order had begun. (III, 2138; V, 5665 Clark)

Sec. 1123. The motion may not be applied to negative votes on motions to adjourn (V, 5620, 5622) or for a recess (V, 5625) or to go into the committee of the whole. (V, 5368) But the motion to reconsider an affirmative vote to go into the committee of the whole has been admitted. (V, 5368) It is in order to reconsider a vote postponing a bill to a certain day. (V, 5645, 5646) It is not in order to reconsider a negative decision on the question of con-

sideration, (V, 5645, 5646) or a vote on suspension of the rules (V, 5645, 5646) It is not in order to reconsider a negative vote on a proposition which would have required a two-thirds vote for the affirmative action. (Ruling by Speaker Clark 1913)

The motion to reconsider a vote on a proposition having been once agreed to and the said vote having again been taken, a second motion to reconsider may not be made, unless the nature of the proposition has been changed by amendments. (V, 5685, 5688)

Sec. 1124. A bill is not considered passed or an amendment agreed to if a motion to reconsider is pending.

Sec. 1125. When a vote whereby an amendment has been agreed to is reconsidered the amendment becomes simply a pending amendment. (V, 5704) When the vote ordering the previous question is reconsidered it is in order to withdraw the motion for the previous question, the decision having been nullified. (V, 5357) When the previous question has been ordered on a series of motions and its force has been exhausted the reconsideration of the vote on one of the motions does not throw it open to debate (V, 5493) but when a vote on a single proposition taken under the operation of the previous question is reconsidered the main question stands divested of the previous question and may be debated. (V, 5491, 5492)

A vote on a motion to lay on the table may be reconsidered whether the decision be in the affirmative or negative. (V, 5628, 5695, 6288, 6037) It is in order to reconsider the vote laying an appeal on the table, (V, 5630) although during proceedings under a call of the House this motion was once ruled out of order. (C, 5631)

Sec. 1126. The motion to reconsider may not be applied to the vote whereby the House has laid another motion to reconsider on the table. (V, 5632, 5640) The motion to reconsider is agreed to by a majority vote even when the vote to be reconsidered requires a two-thirds vote for affirmative action (II, 1656; V, 5617, 5618) or a motion to reconsider is not debatable if the motion proposed to be

reconsidered is not debatable, (V, 5694, 5699) and the application of the previous question makes an undebatable question. (V, 5700, 5701)

Sec. 1127. Rule XVIII, Sec. 2. No bill, memorial or resolution referred to a committee, or reported therefrom for printing or recommitment, shall be brought back into the House on a motion to reconsider.

Practice Under the Rules

Sec. 1128. This rule does not apply to a case wherein the House after considering a bill recommits it. (V, 5648, 5690) After a committee has reported a bill it is too late to reconsider the vote by which it was referred. (V, 5651)

Decorum in Debate

Sec. 1129. Rule XIV, Sec. 1. When any member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker" and on being recognized, may address the House from any place on the floor, or from the clerk's desk, and shall confine himself to the question under debate, avoiding personalities.

Practice Under Rule

Sec. 1130. It is observed as a general rule that a motion must be made before a member may proceed in debate, (V, 4984, 4985) and this motion may be required to be reduced to writing. (V, 4986) The withdrawal of a motion precludes further debate on it. (V, 4789) But sometimes a communication or a report has been before the House, it has been debated before any specific motion has been made in relation to it. (V, 4987, 4988) In a few cases, such as conference reports and reports from committee of the whole, the motion to agree is considered as pending without being offered from the floor. (VI, 4876, V, 6517)

Sec. 1131. A motion must be stated by the Speaker or read by the clerk before debate may begin. A member may not be taken off his feet by an ordinary motion, even

the highly privileged motion to adjourn but he may be interrupted for a conference report. (V, 6451) It is also the custom for the Speaker to request a member to yield for the reception of a message. A member may yield the floor for a motion to adjourn, or that the committee of the whole rise, without losing his right to continue when the subject is again continued. (V, 5009, 5013) A member may also resume his seat while a paper is being read without losing his right to the floor. (V, 5015) But a member may not yield to another member to offer an amendment without losing the floor. (V, 5021, 5030, 5031) A member desiring to interrupt another in debate must address the chair for permission of the speaking member, but the latter may exercise his own discretion as to whether or not he will yield.

The speaker may of right speak from the chair on questions of order and be first heard. (II, 1367)

Sec. 1132. But with this exception he may speak from the chair only by leave of the House and on questions of fact. (II, 1367, 1372) On comparatively rare occasions speakers have called members to the chair and participated in debate, usually without asking consent of the House. (II, 1367; III, 1950; V, 6097)

It has always been held, and quite strictly, that a member must confine himself to the subject under debate. On a motion to amend the debate is confined to the amendment and may not include the general merits of the bill. (V, 5049, 5051)

Rule XIV. Sec. 2. When two or more members rise at the same time, the Speaker shall name the member who is first to speak.

Practice Under the Rule

Sec. 1133. The House adheres to a fixed order of business, and recognitions, instead of pertaining to the individual members, has come to pertain to the bill or other business which comes before the House under the rule regulating the order of business. Hence the necessity that

the Speaker should not be compelled to heed the claims of members as individuals was expressed in a report of the committee on rules, which declared that "in the nature of the case discretion must be lodged with the presiding officer." (II, 1424) The Speaker has declined to entertain an appeal from his decision on a question of recognition and thereby established a practice which continues.

Although there is no appeal from the Speaker's recognition, he is not a free agent in determining who is to have the floor. The practice of the House establishes rules from which he may not depart.

Sec. 1134. When the order of business brings before the House a certain bill he must first recognize, for motions of its disposition, the member who represents the committee which reported it. (II, 1447) This is not necessarily the chairman of the committee, for a chairman who, in committee, has opposed the bill, must yield prior recognition to a member of his committee who has favored the bill. (II, 1449)

Usually, however, the chairman has charge of the bill and is entitled at all stages to prior recognition for allowable motions intended to expedite it. (II, 1452, 1457)

This principle does not extend to the chairman of the committee of the whole. The member who introduces a bill which a committee reports has no claims to recognition as opposed to the claims of the committee, but in cases where a proposition is brought directly before the House by a member, the mover is entitled to prior recognition for motions and debate. (II, 1446, 1454)

Call of House Congress

American Parliamentary Practice

Sec. 1135. Rule XV. Sec. 1. Upon every roll call the names of the members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the state shall be added; and if there be two such members from the same state, the whole name shall be called, and after the roll has been

once called, the clerk shall call in their alphabetical order the names of those not voting; and thereafter the Speaker shall not entertain a request to record a vote or announce a pair, unless the member's name has been noted under section 3 of this rule.

Sec. 1136. The clerk in calling the roll, calls members by the surname with the prefix Mr. The name of the Speaker is not on the voting roll, and is not ordinarily called. When the Speaker votes his name is called at the end of the roll. In case of a tie which is revealed by a correction of the roll, he has voted after intervening business, or even on another day. Hinds, Vol. V, Secs. 5969, 6061-6063.

Sec. 1137. A member who fails to respond when his name was called may not as a constitutional right demand that his vote be recorded before the announcement of the result. Hinds, Vol. V, 6066-6068. Even if he has refrained from voting because of a misunderstanding as to a pair; (Hinds, Vol. V, sec. 6081) or because his attention was distracted when his name was called, Hinds, Vol. V, 6070. But if a member declares he was listening when his name should have been called and failed to hear it, he is then permitted to record his vote. (Hinds, Vol. V, sec. 6071) The Speaker may not permit a member to answer present at the conclusion of a roll call (Hinds, Vol. V, sec. 6069) unless there be a question as to a quorum.

Sec. 1138. **Changes and corrections of votes before the result of a vote has been finally and conclusively pronounced by the chair, but not thereafter,** a member may change his vote. Hinds, Vol. V, Sec. 5931, 5933, 6093, 6094. A member who has answered present may change it to yea or nay. But a vote given by a member may not be withdrawn without leave of the House. Hinds, Vol. V, Sec. 5930.

When the clerk actually fails to record a member's vote, the member may before the approval of the journal, demand as a matter of right, that correction be made. But statements of other members as to alleged errors in a

Call of House — New Form — Congress

Sec. 1144. Rule XV. Sec. 4. Whenever a quorum fails to vote on any question, and a quorum is not present, and objection is made for that cause, unless the House shall adjourn, there shall be a call of the House, and the sergeant-at-arms shall forthwith proceed to bring in absent members and the yeas and nays on the pending question shall at the same time be considered as ordered. The clerk shall call the roll, and each member as he answers to his name may vote on the pending question, and, after the roll call is completed, each member arrested shall be brought by the sergeant-at-arms before the House, whereupon he shall be noted as present, discharged from arrest and given an opportunity to vote and his vote shall be recorded. If those voting on the question and those who are present and decline to vote shall together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the majority of those voting shall appear. And thereupon further proceedings under the call shall be considered as dispensed with.

At any time after the call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this rule shall be vacated.

Practice Under Foregoing Rule

Sec. 1145. The foregoing rule applies to votes where-in a quorum is required, and hence does not apply to a motion to adjourn, or to a call when there is no question pending. (Vol. IV, Sec. 3041, 3042, 2990) Under this rule the roll is called over twice, and those appearing after their names are called may vote. A motion to adjourn may be made before the call begins. After the roll has been called and while the proceedings to obtain a quorum are going on, motions to excuse members are in order.

Conduct of Call in the New Form

Sec. 1146. The sergeant-at-arms is required to detain those who are present and bring in absentees and he does this without the authority of a resolution adopted by those present. There is doubt as to whether or not a warrant is necessary, but it is customary for the Speaker to issue one on the authority given under the rule. When arrested, members are assigned at the bar and either vote or are noted as present, after which they are discharged. (Vol. IV, Sec. 3050, 3051, 3052, 3045, 3048, 3049, 3043, 3044)

Question of Consideration — Congress

Sec. 1147. The question of consideration may not be demanded as to proposition after debate has begun, and a member must submit his proposition and it must be stated by the chair before it is in order for debate to proceed.

The refusal of a House to consider a bill does not amount to its rejection, and does not prevent its being brought before the House again.

Journal, Practice of Congress

Correction and Approval

Sec. 1148. The title of the journal indicates whether or not the Congress was convened by law. Thus on March 4, 1867, the journal speaks of the session as "Held in pursuance of the constitution and the laws of the United States." (Vol. IV, Sec. 729)

The journal is the official record of the proceedings of the House. It is the uniform practice of the House to approve the journal of the proceedings of the prior day. (Vol. IV, Sec. 2731)

The journal may neither be read or approved until a quorum is present. (Vol. IV, Sec. 2732)

If a question of a quorum be raised before the reading of the journal, the Speaker then proceeds to ascertain if a quorum be present by count. (IV, Sec. 2733)

The only journal which may be read to the House is the one that has been read and corrected by the Speaker. (II, Sec. 2734)

The Speaker's right to examine and correct the journal after it has been made up by the clerk has always been affirmed. (IV, 2735) At one time the House declined to adopt a resolution providing that the House could question the propriety of corrections made by the Speaker. The right of the Speaker to correct the journal must be exercised before it is read to the House. (IV, Sec. 2739)

If a member demand it the reading of the journal must be in full. (IV, Sec. 2739-40-41)

The reading of the journal is dispensed with only by unanimous consent, or a suspension of the rules. (IV, Sec. 2747)

The transaction of business is not in order before the reading of the journal. (IV, Sec. 2751, 2752)

The only motion that is permitted before the reading of the journal is the motion to adjourn. (IV, Sec. 2753)

It was held by Speaker Carlisle, however, that a motion to suspend the rules and approve the journal without reading was in order. (IV, Sec. 2758)

The motion to amend the journal takes precedence of the motion to approve. (IV, Sec. 2760)

Correction of Member's Vote in Journal

Sec. 1149. It is the practice of the House to always change or correct a vote which has been erroneously recorded, even though the result is changed thereby. On one occasion Mr. Tillinghast stated that on the preceding day he had voted in the affirmative to suspend the rules and his vote was not recorded, and requested that his vote be recorded with those voting in the affirmative. The journal having been approved the Speaker ruled that it would require unanimous consent to make the correction. Consent being given, the correction was made and Mr. Tillinghast's name was placed in the list of those voting in the affirmative.

Sec. 1150. On another occasion, after the journal had been read, Mr. Winthrop moved to amend the journal saying the ayes given by himself and Mr. Williams on Thursday last (one week before) on the question of reconsidering the vote for printing extra copies of the President's message be now entered upon the journal, the same having been omitted at the time the vote was taken.

After considerable debate on the propriety of this course the motion to amend the journal as suggested by Mr. Winthrop was agreed to by the House, yeas 201, nays 3. The journal was amended accordingly. The Speaker, Mr. Hunter, then said that the operation thereof changed the vote on the question of reconsideration and announced the decision to be in the affirmative. (IV, Sec. 2763)

Sec. 1151. On another occasion a member directed attention to his vote not being recorded and the correction of the journal was ordered and made, when Speaker Davis announced that the operation of the correction thus made was to change the vote upon the resolution, and announced the decision on the resolution to be in the affirmative. So the journal of the preceding day was changed to show the resolution had passed by a vote of 77 yeas and 76 nays. (IV, Sec. 2763) At another time a member stated that he was present when the vote was taken on a certain amendment and requested that the journal be amended by recording his vote in the negative on said amendment.

Another member arose to a parliamentary inquiry and asked whether the gentleman's vote if recorded would make any difference in the result. Speaker Davis said: **"The question is not pertinent to the matter before the House, the only question was whether the gentleman had a right to vote or not. If so, under the uniform practice of the House, his vote must be recorded. The chair desires to say a word further about this objection. In the early history of Congress, gentlemen were not allowed to change a vote in the journal, but it has become more and more liberalized until it has become an absolute right to have it corrected and has**

been so treated where he is wrongfully recorded, so it will be corrected in this case." The motion was put to the House decided in the affirmative and the journal was corrected. (Vol. IV, Sec. 2964)

Another instance of changing the journal for a member's vote is as follows: Mr. Donavan being detained from the House on account of illness, sent a letter to the Speaker, stating that in a certain roll call he was wrongly recorded, the fact being he was not present and had not voted at all. By unanimous consent the journal was amended by asking the correction. (Vol. IV, Sec. 2765)

Sec. 1152. The correction in the journal before its approval of the erroneous record of a member's vote is made as a matter of right, and not by the vote of the House. While the question of approving the journal was pending a member called attention to the fact that he was recorded as voting aye, when in fact he voted no. The Speaker said: "The correction will be made according to the statement of the gentleman. (Vol. IV, Sec. 2766). While the regular time for amending the journal expires with its approval, yet, this rule has been sometimes waived for the correction of a yea and nay vote. (Vol. IV, Sec. 2766). On November 5th, a member raised the question that in the journal of Oct. 28th, his name was omitted from the list of the yeas and nays on a certain question. He therefore proposed to amend the journal of that day making the correction. The motion was opposed on the ground that it would be a dangerous precedent to suffer the journal to be corrected several days after the question had been decided. On the other hand it was contended that the member had taken the earliest opportunity to move the correction, since he did not know his name was omitted until the printed sheets of the journal were on his desk, and that he had a constitutional right to have his name on the journal on that question. The House agreed to correct the journal and it was accordingly done. (Vol. IV, Sec. 2767)

Sec. 1153. At the present time the journal is approved each day formally, the Speaker saying: "Without

objection the journal will be considered as approved." If there is objection, the motion is made and a vote taken. While a proposed correction of the journal may be recorded in the journal, yet it is not in order to insert in full, in this indirect way what has been denied insertion in the first instance. (Vol. IV, Sec. 2782)

Sec. 1154. The House has declined to allow amendment of the journal entry on a motion which was recorded exactly as made. (Vol. IV, Sec. 2783) There is one instance where the House by vote, allowed an explanation of a motion to be entered on the journal. (Vol. IV, Sec. 2783) In amending the journal the House may decide as to what are proceedings, even to the extent of omitting things actually done or recording things not done. The journal of the House being correct, the Speaker nevertheless entertained a motion to amend it so as to cause it to state what was not the fact, leaving the House to decide as to the propriety of the action. Objection being made to the foregoing procedure the Speaker said: "The constitution does not prescribe the manner in which the journal shall be kept, and the House has control thereof, and may judge what are, and what are not proceedings." (Vol. IV, Sec. 2789, 2785.) The Senate has declined to amend the journal so it would show what was not an actual fact. (Vol. IV, Sec. 2786) The Speaker has ruled out of order a motion to expunge a part of the journal. (Vol. IV, 2790) However, the House sometimes rescinds its action and authorizes the clerk to write on the margin of the journal opposite the matter rescinded the word "Rescinded".

It is in order to move to amend the journal by inserting what the House has refused to hear read. (Vol. IV, Sec. 2804)

Making of Journal

Sec. 1155. The journal records acts, but not the reasons therefor. The journal records the proceedings simply and not the circumstances attending it. (Vol. IV, Sec. 2811, 2812)

A motion which is not entertained by the Speaker is not entered in the journal.

Sec. 1156. While the journal ought to be a correct transcript of proceedings the House has refused to insist on a strict chronological order of entries (Vol. IV, Sec. 2815)

The journal is a record of proceedings simply and does not record the statement or opinions of members, in other words, the journal expresses facts and not reasons or opinions. (Vol. IV, Sec. 2817-19)

The request of a member to be excused from voting, or his refusal to vote, may be recorded in the journal, but his reasons therefor or even the fact that he offered reasons may not be recorded. (Vol. IV, Sec. 2826)

There are instances where the House has permitted the names of absent members to be recorded in the journal among the yeas and nays.

A number of members being absent on a preceding day the journal was corrected by placing the names of such members in the roll call as they desired to vote yea or nay. Objection being made to the proceeding, a member recalled the fact that several who were not present when the American Declaration of Independence was adopted were allowed to affix their signatures on the succeeding day. (Vol. IV, Sec. 2825)

Sec. 1157. When a vote is recorded by yeas and nays the nature of the question on which they are taken should be clearly stated in the journal. The result of a vote is recorded in the journal in figures only when the yeas and nays are taken, the refusal of the yeas and nays is not recorded in the journal. (Vol. IV, Sec. 2826-27-28)

Only on special occasions are communications addressed to the Speaker recorded in the journal. Instance: A telegram addressed to the Speaker announcing the death of the last soldier of the Revolution was ordered in the journal. (Vol. IV, Sec. 2835)

When the Speaker calls a member to order for irrelevancy in debate, and the House votes that the member

should proceed, the journal should contain a record of the transaction. The journal records the rulings, but not the remarks of the Speaker, in later years the journal records the reasons for the decisions of the Speaker. (Vol. IV, Sec. 2839, 2840, 2841)

Sec. 1158. The response of the Speaker to a parliamentary inquiry is not recorded in the journal. The Speaker having ruled a resolution out of order, and an appeal having been taken from the decision, it was held that the resolution should appear in the journal in full. (Vol. IV, Sec. 2843.)

It is the usual practice that motions, points of order, and appeals not entertained by the Speaker shall not appear on the journal. (Vol. IV, Sec. 2844)

Committees of Congress

Sec. 1159. "Unless otherwise specifically ordered by the House, the Speaker shall appoint, at the commencement of Congress, the standing committees." Rule X, Sec. 1.

Sec. 1160. "Sec. 2. He shall also appoint all select and conference committees which shall be ordered by the House from time to time."

Sec. 1161. "Sec. 3. The first named member of each committee shall be its chairman, and in his absence, or being excused by the House, the next-named and so on as often as the case shall happen, unless a committee by a majority vote of its members elect a chairman and in case of death of a chairman it shall be the duty of the Speaker to appoint another."

Practice Under Rule

Sec. 1162. The chairman with the permission of the House may resign as chairman, still remaining a member of the committee. (Vol. IV, Sec. 4531, 4532) In the earlier practice of the House the member moving a select committee was appointed its chairman, (Vol. III, Sec. 2342) but except for matters of ceremony, the inconvenience and even

impropriety of the usage has caused it to be disregarded in modern practice. (Vol. IV, Sec. 4517, 4523)

The rules of the National House definitely define the jurisdiction of committees and specify the subject to be referred to the various committees and the rule is mandatory on the Speaker in referring public bills and on members in referring private bills, but when the House itself refers a bill it may send it to any committee without regard to the rules of jurisdiction, (IV, Sec. 4375) and jurisdiction is thereby conferred. (Vol. IV, Sec. 4362, 4364)

Sec. 1163. A bill may not be divided among two or more committees although it may contain matter properly within the jurisdiction of several committees. (Vol. IV, Sec. 4372)

In general practice a committee may not report a bill whereof the subject has not been referred to it by the House. (Vol. IV, Sec. 4355, 4360)

Sec. 1164. When a House bill is returned from the Senate with a substitute amendment relating to a new and different subject, the reference should nevertheless be to the committee having jurisdiction of the original bill. (Vol. IV, Sec. 4373, 4374) The erroneous reference of a public bill, if it remain uncorrected, gives jurisdiction (Vol. IV, Sec. 4365, 4371) but such is not the case with a private bill (Vol. IV, Sec. 3364) unless the reference be by the House itself. A point of order as to the reference of a private bill is good when the bill comes up for consideration either in the House or in committee of the whole (Vol. IV, Sec. 4382)

A bill may be originated by a committee having jurisdiction of a subject by means of a petition, (Vol. IV, Sec. 3365) properly referred.

Sec. 1165. The chairman of joint committees are elected by the committee, but in a few instances the first named member of the Senate committee has been recognized as chairman of the joint committees. (IV, 4447)

A committee may order its report to be made by the chairman or by some other member, even by a member of

the minority party and the chairman sometimes submits a report in which he has not concurred. (Vol. IV, Sec. 4670)

It is the practice in Congress that joint committees shall vote per capita, and not as representatives of the two Houses. (Vol. IV, Sec. 4425)

Although the membership from the House of Representatives is usually but not always larger than that from the Senate (Vol. III, Sec. 1946) but ordinary committees of conference appointed to settle differences between the two Houses are not considered as joint committees and the managers of the two Houses vote separately. (Vol. V, Sec. 6336)

Quorum of Joint Committee

Sec. 1165-a. A quorum of a joint committee is considered to be a majority of the whole number rather than a majority of the membership of each House. (Vol. IV, Sec. 421-424)

In appointing committees the Speaker does so in accordance with the principle that the responsible majority party shall have the majority of each committee (Vol. IV, sec. 4477) and fixes a ratio of representation conforming generally to the relative size of the majority party and the opposition on the floor of the House. (Vol. IV, sec. 4467, 4477, 4478)

Vacancies Filled

The Speaker fills vacancies in committees at his convenience without special direction from the House.

Action of Quorum

A majority of committee constitutes a quorum for business. A quorum of a committee may transact business and a majority of the quorum may authorize a report, (Vol. IV, sec. 4586) even though it be a minority of the whole committee. It is within the authority of the House to authorize less than a quorum of a committee to act.

A committee may conduct its proceedings in secret.

The House has always adhered to the principle that a committee report must be authorized by a committee acting together and a paper signed by a majority of committee, acting separately is ruled out. (Vol. IV, Sec. 4584)

A report is sometimes authorized by less than a majority of the whole committee, some members being silent or absent. (Vol. II, Sec. 985, 986)

In one instance a majority of a committee agreed to a report, but disagreed on the facts necessary to sustain the report. Vol. I, Sec. 819)

Sec. 1166. It seems that it is not unusual for a committee to find itself unable to agree to a positive recommendation, being equally divided, in which case it reports that fact to the House sometimes with evidence and minority and majority views. It is not essential that the report of a committee be signed. (Vol. II, Sec. 1274) But minority views must be signed by those concurring in them. In a case where the majority of a committee signed a report, it was held to be a valid, although a necessary one of that majority did not concur in all the statements. If a report is actually sustained by a majority of a committee, it is not impeached by the fact that a less number signed it, or by the fact that later by the action of absentees more than a majority of the whole committee are found to have signed minority views. (Vol. IV, Sec. 4585)

Sec. 1167. Objection being made that a report has not been authorized by a committee, and there being doubt as to the validity of such authorization the question as to reception is submitted to the House. If, however, the Speaker is satisfied as to the correctness of the authorization of a report, the Speaker may decide that it shall be received. In one case wherein it was shown that a majority did not heed the fact that the meeting was not regularly called. A bill improperly reported is not entitled to its place on the calendar but the validity of a report may not be questioned after the House has voted to consider it or after actual consideration has begun.

As a general rule all business is sent to committees before receiving consideration in the House itself. Occasionally a question of privilege or a minor matter of business is presented and considered at once by the House.

Sec. 1168. No committee of the House except the committee on rules may with special leave sit during the sitting of the House. Leave for a committee to sit during the sessions of the House does not release the member from arrest during a call of the House. A request that a committee have leave to sit during sessions of the House has no privileged status and may be prevented by a single objection.

Amendments Between the Houses

Sec. 1169. "The National House and Senate follow the principles as set forth in Jefferson's Parliamentary Law and sometimes dispose of differences without resorting to conferences. (V, Sec. 6165)

When both Houses insist and neither ask a conference or recede, the bill is lost. (V, 6228) Also when both Houses adhere the bill fails (V, 6163, 6313, 6324, 6325) even though the difference may be over a very slight amendment (V, 6233, 6240) In rare instances in Congress there has been immediate adherence in the first disagreement (V, 6303) but this does not preclude the granting of the request of the other House for a conference. (V, 6241, 6244) Sometimes the House recedes from its disagreement as to certain amendments and adheres as to others. (V, 6229) One House having adhered may at the next stage vote to further adhere. (V, 6251) Sometimes also the House recedes from its adherence. (V, 6252, 6411) or reconsiders its action of adherence (V, 6253) after which it has agreed to the amendment with or without amendment. (V, 6253, 6401)

Practice of the House as to Receding from its Own Amendment to a Bill of the Other House

Sec. 1170. In the practice of the two Houses of Congress the motion is to recede from the amendment without at the same time agreeing to the bill for the bill has already been passed with the amendment, and receding from the amendment, leaves the bill passed. (V, Sec. 6312)

One House has receded from its own amendment after the House had returned it concurred in with an amendment. (V, 6226)

When one House has receded from an amendment, it may not at a subsequent stage recall its action in order to form a new basis for a conference. (V, 6251) Sometimes one House has receded from its amendment although it had previously insisted and asked a conference which had been agreed to. (Vol. V, Sec. 6317)

Practice of the Houses as to Receding from Disagreement to Amendment of the Other House

Sec. 1171. By receding from its disagreement to an amendment of the Senate, the House does not thereby agree to it, (Vol. V, Sec. 6215) but the Senate amendment is then open to amendment precisely as before the original disagreement. (Vol. V, Sec. 6213, 6214)

The stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment. (Vol. V, Sec. 6219, 6223)

The reason stated by the Speaker for this last ruling was that the first motion tended to bring the Houses to a more immediate agreement than the latter, but a motion to recede and concur is divisible and when divided and the House having receded, a motion to amend has precedence of the motion to concur. (Vol. V, Sec. 6209, 6211)

Sec. 1172. The motion to recede and concur in a Senate amendment with an amendment takes precedence of a

motion to further insist on the House's disagreement to the Senate amendment. (Vol. V, Sec. 6224)

It has been held that after the previous question has been moved on a motion to adhere a motion to recede may not be made (Vol. V, Sec. 6310) but where the previous question has been demanded on a motion to insist, a motion to recede and concur has been admitted. (Vol. V, Sec. 6208, 6321a)

Division of a Question

Sec. 1173. On the demand of any member before the question is put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain. Rule of Congress XVI. Sec. 6.

After the question has been put it may again be divided, (Vol. V, Sec. 6162) not after the yeas and nays have been ordered (Vol. V, Sec. 6160, 6161) but it may be demanded after the previous question has been ordered. (Vol. V, Sec. 5498, 6149)

In passing on a demand for a division the chair considers only substantive propositions and not the merits of the question presented. (Vol. V, Sec. 6122)

It seems to be proper, also, that the division should depend on grammatical structure rather than with legislative proposition involved. (Vol. I, Sec. 394; Vol. V, Sec. 6119)

But decisions have been made that a resolution effecting two individuals, may be divided, although such division may involve a reconstruction of the text. (I, 623, V, 6119, 621)

Change or Suspension of Rules

Sec. 1174. Rule XVII. Sec. 1. No rule shall be suspended except by vote of two-thirds of the members voting, a quorum being present, nor shall the Speaker entertain a motion to suspend the rule except on the first and third Mondays of each month, preferences being given on the first Monday to individuals and on the third Monday to committees, and during the last six days of a session.

Practice Under Rule

Sec. 1175. This rule was gradually built up on an old rule of 1794. This rule makes the great purpose of the motion which was to give a means of getting consideration of bills which could not get forward under the rule for the order of business. (Hinds) (It seems from what the writers on congressional procedure say, that originally this rule was intended to restrict motions to suspend to consider bills out of regular order.)

Originally the motion was used to suspend the rules for the order of business in order to consider a particular bill. In the latter practice it is more usual to move to suspend the rules and pass the bill. (Vol. V, Sec. 6846, 6847)

Sec. 1176. A division of the question may not be demanded, either as to the two branches of the motion or as to the distinct substantive propositions in the subject of the motion. (Vol. V, Sec. 6141, 6143)

In rare instances the Speaker has called the Committee in regular order for motions to suspend the rules, but this method is not required by the rules. (Vol. V, Sec. 6810, 6811)

Sec. 1177. The committee motion must be formally and specifically authorized by the committee. (Vol. V, Sec. 6805, 6807) But after the motion has been seconded and debate has begun it is too late to raise the question of authorization. (Vol. V, Sec. 6808)

Second of Motions to Suspend Rules

Sec. 1178. Sec. 2. All motions to suspend the rules shall, before being submitted to the House, be seconded by a majority by tellers, if demanded. This section of the rule is in constant use in the House. The object of the rule is to prevent the consumption of time of the House by forcing consideration of undesirable propositions. (Vol. V, Sec. 6757)

In voting on this second the constitutional right to demand the yeas and nays does not exist, when such second is required by the rules. (Vol. V, Sec. 6032, 6036)

While it is considered as the right of a member to demand a second, but not the duty of the chair to call for it. In other words, it is not the business of the chair to ask whether a second is demanded. (Vol. V, Sec. 6801)

But it is the custom of the Speaker to ask, "Is a second demanded?" (Vol. V, Sec. 6800)

In demanding a second an opponent of the bill is entitled to recognition and a member of the committee reporting the bill has the preference if he be opposed. (Vol. V, Sec. 6802, 6804)

It has been held that the right to demand a second is not necessarily precluded by preliminary debate. (Vol. V, Sec. 6800)

The motion may be withdrawn (Vol. IV, Sec. 6844) or modified at any time before the second has been ordered (Vol. V, Sec. 6841) and a committee may, under the circumstances withdraw a committee motion even on a succeeding day. (Vol. V, Sec. 6845) Clark.

Forty Minutes of Debate

Sec. 1179. Sec. 3. When a motion to suspend the rules has been seconded, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to such proposition, and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

Practice Under Rule

Sec. 1180. Before the adoption of this rule the motion to suspend the rule was not debatable (Vol. V, Sec. 5405, 6820) and it is now held that it may not be debated before a second is ordered. (Vol. V, Sec. 6822)

When the previous question is ordered without debate or motion that it is not debatable, no debate is allowable under this rule. (Decision of Speaker Clark, Jan. 27, 1912).

The forty-minute debate is divided between the mover and seconder. (Vol. V, Sec. 6823, 6824)

When the mover and seconder divide their time with others, the practice as to alternation of recognition is not insisted on so rigidly as in other debates. (Vol. II, Sec. 1442) Clark.

CHAPTER XX

DUTIES OF OFFICERS OHIO ASSEMBLY

President of Senate

Sec. 1181. Senate rules 1 to 7 inclusive, prescribe the duties of the President of the Senate.

President Pro Tem

Sec. 1182. Senate rule 7 prescribes the duties of the President Pro Tem.

Speaker

Sec. 1183. House rules Nos. 1-6, inclusive prescribe the duties of the Speaker.

Speaker Pro Tem

Sec. 1184. House rule 6 prescribes duties of Speaker pro tem.

DEPARTMENT OF CLERK

Clerk

Sec. 1185. The department of the office of the clerk includes the assistant clerk, journal clerk, message clerk, engrossing clerk, enrolling clerk, and recording clerk; the stenographers and pages, and all other clerks or assistants appointed by him or elected which he may require to properly perform the work of his department.

He has the care and custody of all papers, reports, bills, resolutions and other papers and records, and arranges, in its proper order, from day to day — after its reception — all the business of the House. He must in order to have a proper knowledge of the affairs of his department thoroughly organize, systematize and personally supervise the

work of all his subordinates. The duties of his subordinates are properly his duties and he is personally responsible for any deficiencies. The duties of the clerk are set forth in the House Rules.

Assistant or Deputy Clerk

Sec. 1186. The duties of the assistant clerk are to assist the clerk in the performance of all his duties. In the absence of the clerk he should perform all his duties generally, and assume full charge and management of the clerical department. The assistant or deputy clerk has charge of all bills, resolutions and other papers introduced in the House after they have been printed and are ready for reference and it is his duty to see that all such documents are delivered to the chairman of the proper committee — after they have been referred — taking a receipt therefor. Engrossed bills and bills for third reading are filed by him in the order in which they appear on the daily House Calendar and he is personally responsible for their safe keeping. He performs such other services as may be required of him by the clerk. During the daily sessions he occupies a position at the desk to the left of the clerk.

House Parliamentarian

Sec. 1187. It is his duty to assist the Speaker and members in the determination of all questions of parliamentary law that may arise; and examine all bills for the purpose of placing them in the proper form as provided by the rules of the House, the laws of the state and the constitution. He should also examine the Journal of each day to see if the parliamentary procedure is correctly entered therein, and perform such other duties as may be assigned him by the Speaker or clerk.

Journal Clerk

Sec. 1188. His special duty is to keep a correct journal of the proceedings of each day, under the supervision of the clerk; to enter in the journal all matter ordered printed

therein. At the close of each day's session it is his duty to correct the original journal and cause a duplicate copy to be made therefrom and deliver same to the printer for the printed journal. It is his duty to prepare the duplicate copy as soon after adjournment each day as possible, that any delay be prevented in having the printed journal on the desk of the members when the House convenes the following day. It is his duty to remain in the office and supervise the making of the duplicate journal and personally to proof read same and deliver it to the printer. It is also his duty to perform such other service as may be assigned him by the clerk. His position during the session at the clerk's desk is to the left of the deputy clerk.

Message Clerk

Sec. 1189. It is his duty to keep a correct history of all bills, resolutions, etc., of both the House and Senate, showing the title, number and author of each bill and resolution; date of introduction, and all action taken on any bill or resolution by the House, giving the date of such action; to prepare the daily calendar, showing the business in regular order for each day, and deliver same to the printer as soon after adjournment as possible. It is also his duty to take charge of all bills and resolutions when introduced, and other documents to be printed, arranging them in proper order and deliver same to the printer, taking his receipt therefor. He should receipt for all messages coming from the Senate and deliver same to the clerk, and perform such other duties as the clerk may assign him. During the session his position at the clerk's desk is to the right of the clerk.

Engrossing Clerk

Sec. 1190. It is his special duty to engross all bills ordered to be engrossed by the House, carefully placing amendments—if any—adopted prior to the order for engrossment in the place designated by the member offering the amendment. It is his duty to engross all bills in the order that they are given him, and return same to the

assistant clerk taking his receipt therefor. By direction of the clerk he should copy such other documents, reports or paper as may be required for the use of the House. He should permit no record, bill, resolution, documents or papers belonging to the House to be taken out of his custody, otherwise than in the regular course of business nor permit them to be examined by any one unless directed so to do by the clerk. The engrossing clerk may be found in the office of the clerk.

Enrolling Clerk

Sec. 1191. It is his duty to enroll all bills of the House which have passed both houses of the general assembly. From the engrossed bill he makes a duplicate and delivers same to the printer taking his receipt therefor. When the enrolled bill is returned from the printer the enrolling clerk should deliver it to the Committee on Enrollment — it being the duty of this committee to carefully compare the enrolled bill with the engrossed bill correcting any errors that may be found. If correct the enrollment of the bill is then reported to the House and is signed by the Speaker and transmitted to the Senate.

Recording Clerk

Sec. 1192. The duties of the recording clerk are to transcribe the journal of each day into a permanent type-written record. When this record is completed it is certified to by the clerk of the House and delivered to the secretary of state.

Index Clerk

Sec. 1193. The duties of the index clerk are to keep a correct index record of all bills and resolutions introduced in the Senate and House, showing the subject matter, title, author and number of each bill or resolution introduced in the Senate and House. The index clerk is located in the southeastern corner of the hall of the House of Representatives.

Financial Clerk

Sec. 1194. It is his duty to keep a record of all the names of members, officers and employes of the House; to ascertain the local and home address of each, also telephone numbers; make out and have signed the pay rolls and to distribute the pay cards; make out all vouchers for incidental expenses and collect all bills and file them in proper order and present them to the chairman of the Committee on Claims Against the House. It is his further duty to keep a ledger account of all money paid out and for what purpose; of all money appropriated by the General Assembly for the members and officers' salary fund and the contingent fund of the House, said ledger to be filed with the clerk at the close of the session.

Superintendent of Document Room

Sec. 1195. The printed bills, resolutions, journals, calendars and other documents ordered printed by the House are received at the document room by the superintendent and by him prepared for distribution. It is his duty as soon as printed bills, calendars, journals and resolutions or other documents are received by him to place them in regular order in the bill books of the members, and to place on each desk such other printed matter as he may receive for distribution before the opening of the daily session. The superintendent of the document room has charge of all printed documents and should not furnish copies to any person not entitled thereto, except on the order of the clerk.

Bill Clerk

Sec. 1196. The duties of the bill clerks are to assist the superintendent of the document room and to perform such other service as may be required of them by the superintendent, or the clerk of the House.

Superintendent of Stenographers

Sec. 1197. The superintendent of stenographers has charge of all stenographic and typewriting work of the members. He should organize his department with such system that there shall be a fair distribution of the work among the stenographers; name the precise duties and hours of labor for each and see that they perform their duties promptly, thoroughly and courteously. He should so arrange the working hours of the stenographers that during the recess of the House a sufficient number shall be on duty to promptly execute the work members may call upon them to perform. He should not establish any rule, or issue any order relative to his department until such rule or order has been approved by the clerk.

Pages

Sec. 1198. Each page, at the opening of the session, should have assigned to him by the clerk a pro rata number of desks in the House for his special attention. During the daily session he is expected to occupy the position assigned him on the floor and hold himself in readiness to carry messages and papers to and from members, the presiding officer, clerk and newspaper correspondents. All these and such other duties as may be assigned by the clerk under whose special direction and control they are placed, they are expected to perform in a quiet, gentlemanly manner, avoiding at all times while in the House all rude, boisterous conduct, all laughing, talking and whispering during the session.

General Regulations

Sec. 1199. Each elective and appointive clerk, when not occupied in the performance of his own special duties, is to render such assistance to the clerk and his assistants as may be in his power, or as the pressure of duties in a particular department may render necessary. The assistants should notify the clerk of any interference with their duties by others, and of all improper approaches or requests made

of them by any person. They should not exhibit to any person any bill or other document in their possession without leave of the clerk. Perfect courtesy should at all times be maintained towards members, officials and associate assistants and all who may have business to transact with the department.

DEPARTMENT OF SERGEANT-AT-ARMS

Sergeant-at-Arms

Sec. 1200. The department of sergeant-at-arms consists of the sergeant-at-arms, three assistant sergeant-at-arms, doorkeepers, custodians of committee and cloak rooms, janitors and such other employes as may be required for the proper execution of the work of his department. The sergeant-at-arms is the executive officer of the House and to his charge is committed all police regulations. It is his duty to look after the furnishings, heating, ventilating and lighting of the hall of the House of Representatives and auxiliary rooms; serve subpoenas and warrants of the House; receive from the secretary of state all necessary stationery, documents, etc., for the use of the House and distribute same to the officers and members entitled thereto. It is his duty to be present at the opening of each session of the House and assist the presiding officer in calling the members to order, and to perform such other duties as may be required of him by the Speaker of the House. He should organize his department with such system that each of his subordinates shall know his precise duties, and report all dereliction of duty on the part of his subordinates to the Speaker of the House. The duties of his subordinates are properly his and he is responsible for any deficiencies in his department. Each day 15 minutes before the opening of the session he should clear the House of all persons not permitted on the floor and should then notify all committees holding meetings that the hour for the meeting of the House is at hand and when notified the committee should at once adjourn and attend the meeting of the House.

First Assistant Sergeant-at-Arms

Sec. 1201. It is his duty to aid and assist his superior officer generally in the discharge of his duties, and take his place when he is absent and perform such other duties as may be required of him by the sergeant-at-arms.

Second Assistant Sergeant-at-Arms

Sec. 1202. The second assistant sergeant-at-arms is the postmaster of the House. It is the duty of himself and assistant to attend to the receipt and delivery of all mail matter coming to members, officers and employes of the House, and the proper delivery and mailing at the Columbus postoffice of all mail matter received by them. The hours for keeping the House postoffice open may be fixed by rule or the sergeant-at-arms.

Third Assistant Sergeant-at-Arms

Sec. 1203. He is the general custodian of the hall of the House and all committee rooms, and has direct supervision of the custodians of cloak and committee rooms and the janitors. It is customary for him to have the care of the House and Senate during the interim between sessions, his salary and expenses for such service being fixed by resolution and appropriation. It is his duty to perform such other service as may be required of him by the sergeant-at-arms.

Doorkeepers

Sec. 1204. It is their duty to attend the doors entering the hall of the House of Representatives and the galleries: to open and close the doors for the entry and exit of all persons entitled to admittance; to maintain order in the lobby and galleries and see that the rules and regulations of the House and the orders of the sergeant-at-arms are strictly enforced.



Custodians of Cloak Rooms

Sec. 1205. They have charge of the House cloak rooms, and the custody of all coats, parcels, grips, etc., left in their possession by the members. It is their duty to meet the members upon their arrival and departure from the House and take charge of such articles they may desire to leave in the cloak room. Their hours of work are fixed by the sergeant-at-arms.

Custodians of Committee Rooms

Sec. 1206. They have charge of the various committee rooms of the House. They are assigned to the various rooms by the sergeant-at-arms, who prescribes their duties and fixes the hours of their labor.

Janitors

Sec. 1207. It is the duty of the janitors to attend to the cleaning of the hall of the House of Representatives at such hours as may be fixed by the sergeant-at-arms or the rules of the House; attend to the heating, lighting and ventilating; see that all doors are locked and lights extinguished when their work is completed each night, and generally do all things required of them by the sergeant-at-arms.

NOTE: When either or both houses recess or adjourn It merely means that the members adjourn. Such adjournments do not affect the subordinate officers and employees; their duties continue just the same as though no adjournment had been taken, and they should remain at their posts of duty. In other words the duties of officers and employees begin and end with the day, and are not affected by adjournment.



ABBREVIATIONS, CITATIONS, ETC., MEANING OF

- SECTIONAL NUMBERS...** The sectional numbering in this manual has been made without regard for any rules that may govern in such cases. They were added after the compilation of the work was completed, the writer having in mind their usefulness in making a complete and handy index of this Guide and to assist the reader to easily locate any subject treated.
- H. R.** House of Representatives or House resolution, the text when such abbreviations are used will always disclose which of these is intended.
- (V. 1231).....** Such citations and all similar ones refer to Hinds' Precedents of Our National Congress—eight volumes. Mr. Hinds for many years and at the time of his death was Parliamentary Secretary of our National House of Representatives.
- CUSHING** L. S. Cushing's Law and Practice of Legislative Assemblies—one large volume.
- EDMUND CUSHING.....** Parliamentary Manual—Edmund Cushing, brother of the great American parliamentary student and writer, Luther S. Cushing, was Judge of the Superior Court of Maryland. His Manual it seems was prepared as an answer to thousands of letters of inquiry addressed to his brother whose death prevented him from answering personally.
- ROBERTS** General Roberts' Revised Parliamentary Rules—Manual.
- REED** Reeds' Manual of Parliamentary Rules—Speaker, Thomas B. Reed.
- JEFFERSON** Jefferson's Parliamentary Manual—Thomas Jefferson, Vice President and presiding officer of the U. S. Senate and President of the United States.

- BOURINOT Parliamentary Practice of the Dominion of Canada. Mr. Bourinot was formerly clerk of the Canada House of Commons.
- HATSELL Hatsell's English Precedents, six volumes. Mr. Hatsell was at the time he prepared this work, Clerk of the English House of Commons.
- MAY May's English Parliamentary Practice— one volume. Third edition, now running in the eleventh. Mr. May was formerly clerk of the English House of Commons.
- HINDS Asher Hinds' Digest of Rules and Precedents of Congress.
- CLARK Bennet Clark's Digest of Rules and Practice of Congress. Mr. Clark was formerly Parliamentarian of the National House of Representatives.
- GILFREY Precedents and Points of Order of United States Senate. Mr. Gilfrey was formerly clerk of the U. S. Senate.
- CLEAVES Cleaves' Manual of Conferences of Congress. Mr. Cleaves was formerly deputy clerk of the U. S. Senate.
- G. C. General Code of Ohio.
- CONST. Constitution of Ohio.
- CONG. Congress.
- SPEAKER OR PRESIDENT. The terms, Speaker and President as used in this Manual referring to the presiding officers are interchangeable, as are also House and Senate.
- AMERICAN PARLIAMEN-
TARY PRACTICE..... Rules— Practice, precedents and rulings of the National House of Representatives.
- SPEAKERS' DECISIONS... Refer to speakers of the National House, unless otherwise stated.
- H. B. House Bill.
- S. B. Senate Bill.
- H. J. R. House Joint Resolution.
- S. J. R. Senate Joint Resolution.
- S. R. Senate Resolution.
- O. L. Ohio Laws.

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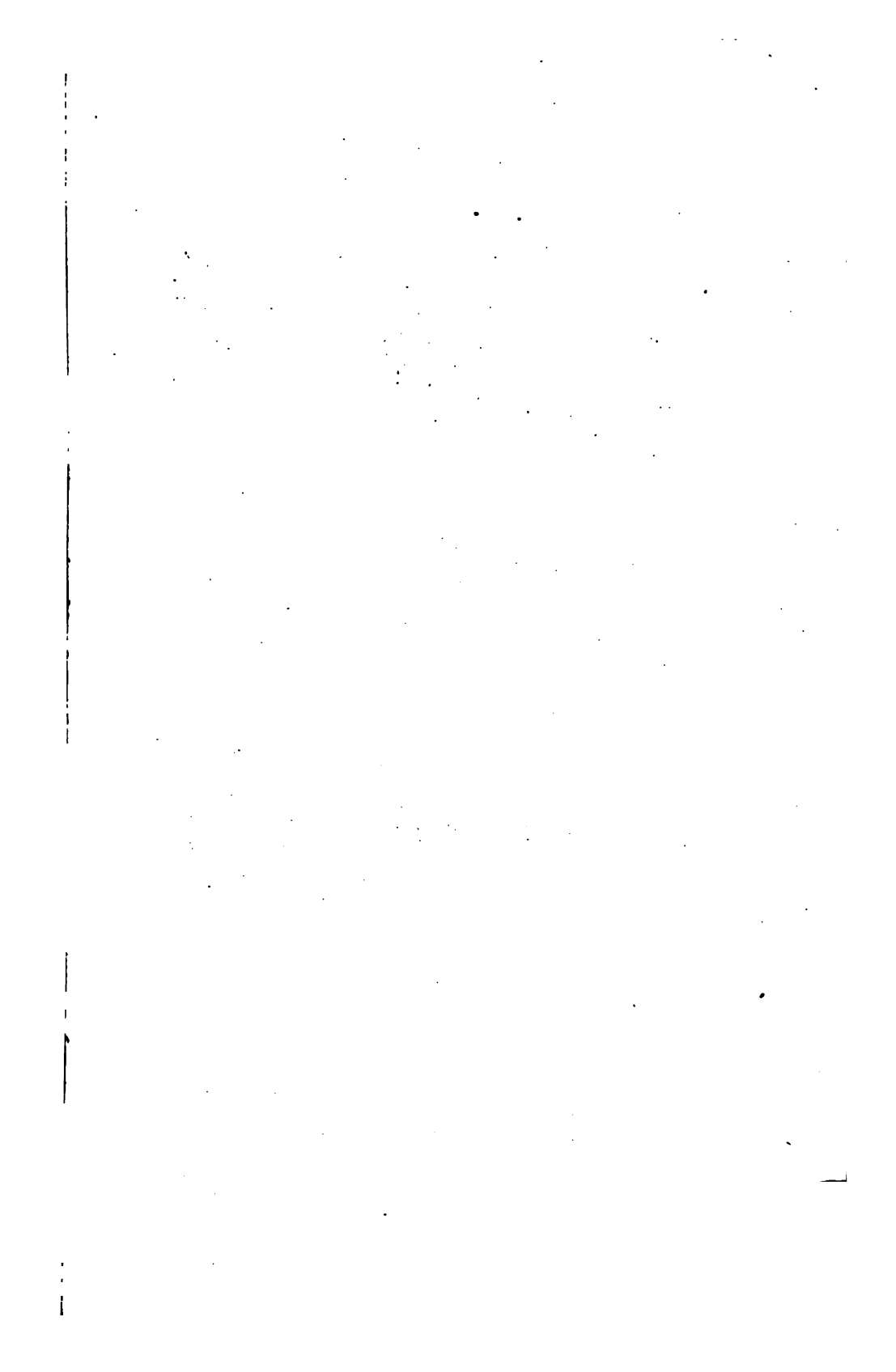
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